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Washington, Wednesday, March 2, 1938

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

AMENDMENT OF THE CONSULAR REGULATIONS

By virtue of and pursuant to the authority vested in me by section 1752 of the Revised Statutes of the United States (U. S. C., title 22, sec. 132), it is ordered that Article XIII of the Consular Regulations, as contained in Executive Order No. 7729 of October 16, 1937,[1] be, and it is hereby, amended as follows:

1. That part of section 202 preceding paragraph numbered (1) is amended to read:

"202. *Cases in which seamen may be discharged.*—The usual cases in which American seamen are discharged, upon payment of wages, in a foreign port by consular officers, under the provisions of the statutes and the principles of maritime law, may be stated as follows:"

2. The following paragraph, numbered (11), is inserted between paragraphs numbered (10) and (12) of section 202:

"(11) When the vessel is wrecked, destroyed, lost, stranded, or condemned as unfit for service. (See also sec. 228.)"

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
February 28, 1938.

[No. 7826]

[F. R. Doc. 38-633; Filed, March 1, 1938; 12:02 p. m.]

TREASURY DEPARTMENT.

Federal Alcohol Administration Division.

[Regulations No. 5, Amendment No. 5]

AMENDING CERTAIN PROVISIONS OF THE DISTILLED SPIRITS LABELING REGULATIONS WITH REFERENCE TO THE PROPER LABELING OF WHISKEY STORED IN REUSED COOPERAGE AND TO OTHER MATTERS

Pursuant to the provisions of Section 5 (e) of the Federal Alcohol Administration Act, as amended, Regulations No. 5,[2] Relating to Labeling and Advertising of Distilled Spirits, as amended, are further amended as follows:

1. Article II, Section 21, Class 2 (a) of said regulations is amended to read:

CLASS 2. *Whiskey.*—"Whiskey" is an alcoholic distillate from a fermented mash of grain distilled at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whiskey, and withdrawn from the cistern room of the distillery at not more than 110° and not less than 80° proof, whether or not such proof is further reduced prior to bottling to not less than 80° proof; and also includes mixtures of the foregoing distillates for which no specific standards of identity are prescribed herein. Those types of whiskey specified in subsections (a) through (j) below shall be deemed "American type" whiskeys.

(*a*) "Rye whiskey", "bourbon whiskey", "wheat whiskey", "malt whiskey", or "rye malt whiskey" is whiskey which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain or malted rye grain, respectively, and, if produced on or after March 1, 1938, stored in charred new oak containers, and also includes mixtures of such whiskeys where the mixture consists exclusively of whiskeys of the same type. "Corn whiskey" is whiskey which has been distilled at not exceeding 160° proof from a fermented mash of not less than 80% corn grain, stored in uncharred oak containers or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, and also includes mixtures of such whiskey.

2. Article II, Section 21, Class 2 (d) of said regulations is amended to read:

(*d*) (1) "Straight bourbon whiskey" is straight whiskey distilled from a fermented mash of grain of which not less than 51% is corn grain.

(2) "Straight corn whiskey" is straight whiskey distilled from a fermented mash of grain of which not less than 80% is corn grain, aged for the required period in uncharred oak containers or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood.

3. Article III, Section 32 (c) (10) of said regulations is amended to read:

(10) Age of whiskey and straight whiskey, respective percentages of whiskey, straight whiskey and neutral spirits, and type of cooperage, in accordance with Section 39 below: *Provided*, That no label shall bear any statement relative to age or period of storage for any American whiskey (other than corn whiskey, straight corn whiskey, blended corn whiskey and blends of straight corn whiskey) produced on and after July 1, 1936, and prior to March 1, 1938, unless such whiskey has been stored in a charred new oak container.

4. Article III, Section 34 of said regulations is amended by adding at the end thereof two subsections to read:

(*d*) In the case of whiskey (as defined in Article II, Section 21, Class 2) and in the case of American type whiskey, which in whole or in part, is treated, on or after March 1, 1938, with wood chips through percolation or otherwise, during distillation, rectification or storage, there shall be stated in direct

[1] 2 F. R. 2601 (DI).
[2] 1 F. R. 92.

FEDERAL REGISTER

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TABLE OF CONTENTS

conjunction with the class and type designation the phrase "Colored and flavored with wood chips".

(e) In the case of whiskey (as defined in Article II, Section 21, Class 2) produced in the United States on or after March 1, 1938, and stored in reused cooperage, which has been distilled at not exceeding 160° proof from a fermented mash of not less than 51% rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, respectively, there shall be stated in direct conjunction with the class and type designation, in uniform lettering not greater than one-half the size of such designation, "Distilled from Rye (or Bourbon, Wheat, Malt or Rye Malt) Mash", as the case may be.

5. Article III, Section 39 (a) (1) of said regulations is amended to read:

(1) *Whiskey, rye whiskey, etc.*—In the case of the whiskeys defined in Article II, Section 21, Class 2 and Class 2 (a), if not mixed, the age of the whiskey; if mixed, the age of the youngest whiskey. The statement of age in both cases under this paragraph shall be as follows: "This whiskey is ------ (years and/or months) old".

6. Article III, Section 39 (a) of said regulations is amended by adding to the end thereof an unnumbered paragraph to read:

Notwithstanding the foregoing provisions of this subsection, in the case of whiskey (as defined in Article II, Section 21, Class 2), produced in the United States on and after March 1, 1938, and stored in reused cooperage, there shall be stated in lieu of the words "* * * is ------ (years and/or months) old", the words "* * * stored ------ (years and/or months) in reused cooperage", and in lieu of the words "* * * ------ (years and/or months) or more old", the words "* * * stored ------ (years and/or months) or more in reused cooperage".

7. Article IV, Section 46 (d) of said regulations is amended, effective May 1, 1938, to read:

(d) Whiskey (as defined in Article II, Section 21, Class 2), and American type whiskeys, imported on or after August 15, 1936, shall not be released from customs custody in bottles unless there is presented at the time of entry or at the time of request for lease, a certificate issued by a duly authorized official of the appropriate foreign government certifying:

In case of straight whiskey, (1) the class and type (such as straight whiskey, straight rye whiskey, straight bourbon whiskey, etc.) thereof, (2) the American proof at which distilled, (3) that no neutral spirits or other whiskey has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (4) the age of the whiskey, and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of whiskey and the distinctive types of whiskey, (1) the class and type (such as whiskey, rye whiskey, bourbon whiskey, etc.), (2) the American proof at which distilled, (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage, (4) the age of the whiskey, and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of blended whiskey, (1) the class and type (such as blended whiskey, blended rye whiskey, blended bourbon whiskey, etc.), (2) the percentage of straight whiskey, or any distinctive type thereof, used in the blend, (3) the American proof at which the straight whiskey was distilled, (4) the percentage of other whiskey, if any, in the blend, (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled, (6) the age of the straight whiskey and the age of the other whiskey, if any, in the blend, and (7) the type of containers in which such age or ages were acquired (whether new or reused, also whether charred or uncharred).

8. Article V, Section 51 (d) of said regulations is amended, effective May 1, 1938, to read:

(*d*) Distilled spirits imported in bulk on or after August 15, 1936, and bottled in the United States with or without taxable rectification, shall not be labeled as whiskey (as defined in Article II, Section 21, Class 2), or as any type of American whiskey, unless the permittee authorized to bottle such distilled spirits possesses a certificate for such whiskey issued by a duly authorized official of the appropriate foreign government certifying:

In case of straight whiskey:

(1) the class and type (such as straight whiskey, straight rye whiskey, straight bourbon whiskey, etc.) thereof; (2) the American proof at which distilled; (3) that no neutral spirits or other whiskey has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whiskey; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of whiskey and the distinctive types of whiskey: (1) the class and type (such as whiskey, rye whiskey, bourbon whiskey, etc.); (2) the American proof at which distilled; (3) that no neutral spirits has been added as a part thereof or included therein, whether or not for the purpose of replacing outage; (4) the age of the whiskey; and (5) the type of container in which such age was acquired (whether new or reused, also whether charred or uncharred);

In case of blended whiskey: (1) the class and type (such as blended whiskey, blended rye whiskey, blended bourbon whiskey, etc.); (2) the percentage of straight whiskey, or any distinctive type thereof, used in the blend; (3) the American proof at which the straight whiskey was distilled; (4) the percentage of other whiskey, if any, in the blend; (5) the percentage of neutral spirits, if any, in the blend, and the name of the commodity from which distilled; (6) the age of the straight whiskey and the age of the other whiskey, if any, in the blend; and (7) the type of containers in which such age or ages were acquired (whether new or reused, also whether charred or uncharred);

and unless the labels are in all particulars consistent with the facts stated in the certificate,

9. Article VIII, Section 80 of said regulations is amended to read:

SEC. 80. *Exports.*—These regulations shall not apply to distilled spirits for export.

[SEAL] W. S. ALEXANDER, *Administrator.*

Approved: February 28, 1938.

HENRY MORGENTHAU, Jr.,
Secretary of the Treasury.

[F. R. Doc. 38-628; Filed, March 1, 1938; 9:48 a. m.]

DEPARTMENT OF THE INTERIOR.

Division of Grazing.

UTAH GRAZING DISTRICT NO. 5

MODIFICATION

FEBRUARY 23, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and subject to the limitations and conditions therein contained, Departmental order of May 7, 1935, establishing Utah Grazing District No. 5, is hereby modified to include within its exterior boundaries the following-described lands:

UTAH

Salt Lake Meridian

T. 30 S., R. 5 E.,
sec. 10;
sec. 14, S½N½, S½;
sec. 15, lot 1, NW¼NE¼, N½NW¼;
T. 44 S., R. 6 E.,
sec. 6, lots 1 and 2;
T. 40 S., R. 11 E., that part west of Colorado River;
T. 28 S., R. 13 E., that part southwest of Fremont River;
T. 29 S., R. 2 W.,
sec. 31.

Rules and regulations for the administration of grazing districts issued by the Secretary of the Interior March 2, 1936, and subsequently amended, shall be effective as to the lands embraced within this addition from and after the date of the publication of this order in the FEDERAL REGISTER.

[SEAL] HAROLD L. ICKES,
Secretary of the Interior.

[F. R. Doc. 38-627; Filed, March 1, 1938; 9:33 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[ACP-1938-3]

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN AS AMENDED FEBRUARY 19, 1938

CONTENTS

This bulletin revises and supplements the 1938 Agricultural Conservation Program Bulletin (ACP–1938) and Supplements Nos. 1 and 2 thereto (ACP–1938–1 and ACP–1938–2)[1] and to the extent of such revision and supplementation, but not otherwise, supersedes said bulletin and supplements.

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, and in connection with the effectuation of the purposes of Section 7 (a) of said Act in 1938, payments and grants of aid will be made for participation in the 1938 Agricultural Conservation Program in accordance with the provisions of this bulletin and such modifications thereof or other provisions as may hereafter be made.

The provisions of the 1938 Agricultural Conservation Program are necessarily subject to such legislation affecting said program as the Congress of the United States may hereafter enact; the making of the payments and grants of aid herein provided are contingent upon such appropriation as the Congress may hereafter provide for such purpose; and the amounts of such payments and grants of aid will necessarily be within the limits finally determined by such appropriation and the extent of national participa-

[1] 2 F. R. 2640 (DI); 3 F. R. 52, 304 (DI).

tion. Any increase or decrease in rates of payments and deductions with respect to any crop or other item of payment made because of the extent of participation in the program in connection with such crop or item of payment will not exceed 10 percent.

The provisions of the 1938 Agricultural Conservation Program contained in this bulletin are not applicable to (1) Hawaii, Puerto Rico, and Alaska; (2) counties for which special agricultural conservation programs under said Act are approved for 1938 by the Secretary; and (3) public domain of the United States, including land owned by the United States and administered under the Taylor Grazing Act or by the Forest Service of the United States Department of Agriculture, and other lands in which the beneficial ownership is in the United States.

SECTION I. *National and State acreage allotments and goals.*—A. *National goals.*—The national goals in connection with the 1938 Agricultural Conservation Program shall be as follows:

1. The following acreages of soil-depleting crops:

Cotton, 26,000,000 to 27,000,000 acres.

Corn, 94,000,000 to 97,000,000 acres.

Tobacco: flue-cured, 850,000 to 875,000 acres; burley, 450,000 to 475,000 acres; fire-cured and dark air-cured, 170,000 to 180,000 acres; cigar filler and binder, 85,000 to 90,000 acres; Georgia-Florida Type 62, 2,800 to 3,000 acres.

Potatoes, 3,100,000 to 3,300,000 acres.

Peanuts, 1,500,000 to 1,600,000 acres.

Rice, 825,000 to 875,000 acres.

Total soil-depleting crops, 275,000,000 to 290,000,000 acres.

2. The seeding and maintenance of soil-conserving crops on the cropland not required in 1938 for the growing of soil-depleting crops; the restoration, insofar as is practicable, of a permanent vegetative cover on 6,000,000 acres of land unsuited to the continued production of cultivated crops; and the carrying out of soil-building practices that will preserve and improve soil fertility and prevent wind and water erosion.

B. *National and State acreage allotments and restoration land goals.*—National and State acreage allotments of soil-depleting crops and State restoration land goals will be determined by the Secretary.

SEC. II. *County acreage allotments and goals.*—A. *County acreage allotments of soil-depleting crops.*—The Agricultural Adjustment Administration with the assistance of State committees shall establish county acreage allotments for total soil-depleting crops, and for cotton, corn, wheat, tobacco, potatoes, and peanuts for market, and goals for restoration land as hereinafter set forth. The soil-depleting acreage allotments for all counties in each State shall not exceed the applicable acreage allotment established for the State by the Secretary except as otherwise provided in this bulletin.

1. *Total soil-depleting acreage allotments.*—County acreage allotments of total soil-depleting crops shall be established by distributing the State acreage allotment of total soil-depleting crops among the counties in the State on the basis of the average acreage of soil-depleting crops grown in such counties in whichever of the periods of five or more consecutive years since 1927 the Agricultural Adjustment Administration finds it most representative of normal conditions and the base acreages of total soil-depleting crops established in connection with the 1937 Agricultural Conservation Program, adjusted where necessary for farms for which provision was not made in 1937, with due allowance for trends in acreage of soil-depleting crops, farms for which the general crop acreage allotment will be as large as the usual acreage of general soil-depleting crops, and the relationship of the usual acreage of individual soil-depleting crops to the 1938 acreage allotments in counties where allotments for individual soil-depleting crops are established.

2. *Cotton acreage allotments.*—(*a*) County acreage allotments for cotton shall be determined as follows: The State acreage allotment of cotton (less 2 percent or such smaller part thereof as the Agricultural Adjustment Administration determines shall be required in the State in making allotments to farms on which cotton will be planted in 1938 but on which cotton was not planted in any of the years 1935, 1936 and 1937) shall be prorated among the counties in the State on the basis of the acreage planted to cotton during the five years, 1933 to 1937, inclusive, plus, in the applicable years, the acreage diverted from the production of cotton under agricultural adjustment and conservation programs: *Provided*, That there shall be added to the acreage allotment for each county so determined the number of acres, if any, required to provide an acreage allotment in such county of not less than 60 percent of the sum of (1) the acreage planted to cotton in such county in 1937, and (2) the acreage therein diverted from the production of cotton in 1937 under the agricultural conservation program.

(*b*) In any county where the Agricultural Adjustment Administration finds that there are one or more administrative areas which, because of differences in types, kinds and productivity of the soil or other conditions, shall be treated separately in order to prevent discrimination the county acreage allotment shall be apportioned pro rata among such administrative areas on the basis of the acreage planted to cotton in 1937 plus the acreage diverted from the production of cotton under the 1937 Agricultural Conservation Program, or, if the Agricultural Adjustment Administration determines that conditions affecting the acreage planted to cotton were not reasonably uniform throughout the county in 1937, then on the basis of the cotton soil-depleting base acreages established under the 1937 Agricultural Conservation Program. Allotments to the farms within each such administrative area shall be made by distributing the allotment for such administrative area in the manner provided in Section III for the apportionment of cotton county acreage allotments among farms.

3. *Corn acreage allotments.*—County acreage allotments of corn for counties in the commercial corn-producing area shall be established by distributing the State acreage allotment of corn among such counties in such State pro rata on the basis of the acreage of corn seeded for the production of corn in such counties during the ten years, 1928 to 1937, inclusive, plus, in applicable years, the acreage diverted under agricultural adjustment and conservation programs. If, on account of abnormal weather conditions, the acreage seeded to corn in a county in any year of such ten-year period was less than 50 percent or more than 150 percent of the average for the other nine years, such year shall be eliminated in calculating the average acreage seeded to corn for such county. The average acreage seeded in any county so determined shall be adjusted for trends in acreage by giving due consideration to the average annual increase or decrease in the acreage seeded to corn in the county as indicated by the acreage seeded to corn and diverted from the production of corn under agricultural adjustment and conservation programs during the last five years of the period 1928 to 1937, inclusive, as compared with the acreage seeded to corn during the first five years of such period.

4. *Wheat acreage allotments.*—County acreage allotments of wheat shall be established by distributing the State acreage allotment of wheat among the counties in such State pro rata on the basis of the acreage of wheat seeded for the production of wheat during the ten years, 1928 to 1937, inclusive, plus in applicable years the acreage diverted under agricultural adjustment and conservation programs. If, on account of abnormal weather conditions, the acreage seeded for the production of wheat in a county in any year of such ten-year period was less than 50 percent or more than 150 percent of the average computed for the other nine years, such year shall be eliminated in calculating the average acreage seeded for the production of wheat in such county. The average acreage seeded in any county for the production of wheat so determined shall be adjusted for trends in acreage by giving equal weight to the acreages seeded for the production of wheat and the acreages diverted from the production of wheat during the years 1935, 1936, and 1937, and to the acreages so seeded and diverted

during the ten-year period 1928 to 1937, inclusive, as adjusted for abnormal weather conditions.

5. *Tobacco acreage allotments.*—County acreage allotments for each kind of tobacco shall be established by distributing the State acreage allotment of such kind of tobacco among the counties in such State on the basis of the total acreage planted to such kind of tobacco in the county during the years 1933 to 1937, inclusive, plus in applicable years the acreage diverted under agricultural adjustment and conservation programs, with such adjustments as are necessary to make correction for abnormal conditions of production, for small farms, and for trends in acreage, giving due consideration to seed-bed and other plant diseases during such five-year period.

6. *Potato acreage allotments.*—County acreage allotments of potatoes for counties in the areas designated by the Agricultural Adjustment Administration as commercial potato-producing areas shall be established by distributing the State acreage allotment of potatoes among such counties in such State pro rata on the basis of the average acreage devoted to potatoes in such counties during the years 1933 to 1937, inclusive, taking into consideration trends in acreage on commercial potato-producing farms as reflected by the acreage planted to potatoes in 1937, as compared with the average acreage planted during such five-year period, and also taking into consideration the acreage of potatoes on non-commercial potato-producing farms.

7. *Peanut acreage allotments.*—County acreage allotments of peanuts for market for counties in the areas designated by the Agricultural Adjustment Administration as commercial peanut-producing areas shall be established by distributing the State acreage allotment of peanuts among such counties in such State pro rata on the basis of the base acreages for peanuts established for such counties under the 1937 Agricultural Conservation Program, taking into consideration trends in acreage on commercial peanut-producing farms.

B. *County restoration land goals.*—County goals for restoration land shall be established by distributing the applicable State restoration land goal among the counties in the areas designated by the Agricultural Adjustment Administration as areas subject to serious wind erosion and areas containing large acreages unsuited to continued production of cultivated crops, on the basis of the amount of land in such counties which was cropped at least once since January 1, 1930 but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

C. *County soil-building goals.*—Insofar as practicable, county goals shall be established for particular soil-building practices which are not routine farming practices and which are most needed in the county in order to preserve and improve soil fertility and to prevent wind and water erosion.

SEC. III. *Farm acreage allotments and goals.*—The county committee, with the assistance of other local committees in the county, shall determine acreage allotments, restoration land goals, and soil-building practice goals, in accordance with provisions contained herein and instructions issued by the Agricultural Adjustment Administration. The soil-depleting acreage allotments determined for the farms in a county shall not exceed the applicable county acreage allotments established for the county by the Agricultural Adjustment Administration, and the sum of the acreage allotments for farms furnishing required forms and information shall not exceed their proportionate share of the county acreage allotments.

A. *Soil-depleting acreage allotments.*—1. *Total soil-depleting acreage allotment.*—The total soil-depleting acreage allotment for any farm shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, the acreage of all soil-depleting crops customarily grown on the farm, and, when the Agricultural Adjustment Administration finds it applicable, the acreage of food and feed crops needed for home consumption on the farm, taking into consideration allotments established for individual soil-depleting crops. The total soil-depleting acreage allotment for any farm shall be comparable with the allotments determined for other farms in the same community which are similar with respect to such factors.

2. *Cotton allotment.*—(a) County cotton acreage allotments shall be apportioned among the farms in the county on which cotton was planted in any one of the years 1935, 1936, and 1937, in a manner that will result in a cotton acreage allotment for each such farm which is a percentage (which shall be the same percentage for all farms in the county or administrative area) of the land in the farm in 1937 which was tilled annually or in regular rotation exclusive of the acres of such land normally devoted to the production of wheat, tobacco, or rice for market or for feeding to livestock for market except that (1) for any farm with respect to which the highest acreage planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937, is five acres or less, the cotton acreage allotment for the farm shall be such highest number of acres if the county cotton acreage allotment is sufficient therefor; (2) for any farm with respect to which the highest number of acres planted to cotton and diverted from the production of cotton in any one of the three years, 1935, 1936, and 1937, is more than five acres, the allotment for the farm shall not be less than five acres if the county cotton acreage allotment is sufficient therefor; (3) notwithstanding the foregoing provisions of this paragraph (a), a number of acres equal to not more than 3 percent of the county acreage allotment in excess of the allotments made to farms on which the highest number of acres planted to cotton plus the acres diverted from the production of cotton in any of the years 1935, 1936, and 1937, was five acres or less and the number of acres required for allotments of five acres for each other farm in the county on which cotton was planted in 1935, 1936, or 1937 may be apportioned among farms in the county on which cotton was planted in 1935, 1936, or 1937, and for which the allotment otherwise provided is five acres or more but less than 15 acres and less than the highest number of acres planted to cotton and diverted from the production of cotton in any one of the years 1935, 1936, and 1937. In making such allotments under clause (3) in the preceding sentence consideration shall be given to the land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other facilities affecting the production of cotton, and such increases shall not be such as to increase the allotment to any farm above 15 acres. In no event shall the allotment for any farm under this paragraph (a) exceed the highest number of acres planted to cotton and diverted from the production of cotton in any one of the three years 1935, 1936, and 1937.

(b) That portion of the State acreage allotment not apportioned among the counties under Section II, subsection A, paragraph 2 (a), hereof shall be apportioned to farms in the State on which cotton will be planted in 1938 but on which cotton was not planted in any of the years 1935, 1936, and 1937, so as to result in comparable allotments to farms similar with respect to land, labor, and equipment available for the production of cotton, crop rotation practices, and the soil and other physical facilities affecting the production of cotton. The county committee shall report, through the State committee, to the Agricultural Adjustment Administration the acreage required for the allotments to such farms in the county, together with such substantiating data as may be required by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall allot to the county the proportion of that part of the State acreage allotment reserved for this purpose which it finds reasonable on the basis of the data so reported.

3. *Corn allotment.*—Acreage allotments of corn shall be determined for farms in the commercial corn-producing area on the basis of tillable acreage, crop rotation practices, type of soil and topography. The allotment for any

farm shall be comparable to the allotments recommended for other farms in the same community which are similar with respect to such factors.

4. *Wheat allotment.*—Acreage allotments of wheat shall be determined for farms on which wheat has been seeded for harvest in one or more of the years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. Not more than 3 percent of the county wheat acreage allotment shall be apportioned to farms in such county on which wheat was not seeded for harvest in any one of the three years 1935, 1936, and 1937, on the basis of tillable acreage, crop rotation practices, type of soil and topography. The wheat acreage allotment for any farm shall be comparable with the allotment determined for other farms in the same community which are similar with respect to such factors. No allotment shall be established for any class B farm for which the normal production of wheat for market is less than 100 bushels.

5. *Tobacco allotment.*—Acreage allotments for each kind of tobacco shall be determined on the basis of past acreage of each kind of tobacco with due allowance for the effects of abnormal weather conditions and plant-bed and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The tobacco acreage allotment for any farm on which tobacco was grown in one or more of the years 1934 to 1937, inclusive, shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors: *Provided,* That in the case of flue-cured, Burley and fire-cured and dark air-cured tobacco, special consideration shall be given to farms for which acreage allotments are small. The allotment for any farm on which tobacco is to be produced in 1938 for the first time since 1933 shall not exceed 75 percent of the allotment for other farms in the same community on which tobacco was produced since 1933 which are similar with respect to land, labor, and equipment available for the production of tobacco; crop rotation practices, and the soil and other physical factors affecting the production of tobacco.

6. *Potato allotment.*—In counties included in the commercial potato-producing areas allotments shall be determined for each farm normally producing potatoes excluding farms on which the acreage normally planted to potatoes for market is determined to be less than three acres. No potato acreage allotment shall be less than three acres. Potato acreage allotments shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, production facilities, and the acreage of potatoes customarily grown on the farm. The potato acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

7. *Peanut allotment.*—In counties included in the commercial peanut-producing areas a peanut acreage allotment shall be determined for each farm on which peanuts for market were produced in any one of the years 1935, 1936, and 1937. Peanut acreage allotments shall be established on the basis of good soil management, tillable acreage on the farm, type of soil, topography, degree of erosion, and the acreage of peanuts for market customarily grown on the farm. The peanut acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

8. *Rice allotment.*—(*a*) A rice acreage allotment shall be determined for each farm on which rice is grown in 1938 on the basis of the rice acreage apportioned to the persons participating in the production of rice on such farm in 1938 and allocated by them to such farm, the acreage on the farm suited to rice production and for which water is readily available, and the acreage of rice customarily grown by such persons. The rice acreage allotment for any farm shall be comparable with the allotments for other farms in the same community which are similar with respect to such factors.

(*b*) The State rice acreage allotment (less 1 percent or such smaller part thereof as the Agricultural Adjustment Administration determines shall be required in the State for apportionment as provided in (*c*) below) shall be apportioned by the State committee, in accordance with instructions issued by the Agricultural Adjustment Administration, among the persons in the State who are participating in the production of rice in 1938 on the basis of their production of rice during the years 1933 to 1937, inclusive; land, labor, equipment, and water available for the production of rice; crop rotation practices, soil fertility, and other physical factors affecting the production of rice.

(*c*) That portion of the State rice acreage allotment not apportioned among farms pursuant to paragraph (b) above, shall be apportioned by the State committee, in accordance with instructions issued by the Agricultural Adjustment Administration, among the persons in the State who are participating in the production of rice in 1938 but who did not participate in the production of rice in any one of the years 1933 to 1937, inclusive, on the basis of land, labor, equipment, and water available for the production of rice; crop rotation practices, soil fertility, and other physical factors affecting the production of rice.

9. *General crop allotment.*—A general crop acreage allotment shall be determined for each class A farm. Such general crop acreage allotment shall be the total soil-depleting acreage allotment in excess of the sum of (1) the individual crop acreage allotments established for the farm, and (2) the acreage of sugar beets grown on the farm in 1938.

B. *Restoration land and soil-building goals.*—1. *Restoration land goal.*—Restoration land goals shall be determined on the basis of the land on the farm which has been cropped at least once since January 1, 1930 but on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

2. *Soil-building goal.*—The soil-building goal for any farm shall be the number of units of soil-building practices equal to two-thirds of the number of dollars computed for the farm under Section IV, subsection C, with respect to the soil-conserving acreage for class A farms, the acreage of cropland with respect to which a payment of 70 cents per acre is computed for class B farms, and the commercial vegetable acreage, commercial orchards, and noncrop pasture land for all farms. The goal so established shall represent the number of units of applicable practices to be carried out on the farm. Insofar as practicable, the county committee shall determine for individual farms practices to be followed in meeting the goal which are not routine farming practices on the farm but which are needed on the farm in order to preserve and improve soil fertility and prevent wind and water erosion, and which will tend to accomplish the goals, if any, established for the county with respect to particular soil-building practices.

C. *Posting of acreage allotments.*—All acreage allotments established for farms in a county shall be posted or kept freely available for public inspection in the office of the county committee or county agricultural extension agent.

SEC. IV. *Payment for full performance.*—Payment will be made with respect to any farm for not exceeding soil-depleting acreage allotments, and for achieving soil-building and restoration land goals, in an amount which shall be the sum of the following:

A. *Soil-depleting acreage allotments.*—1. *Cotton.*—2.4 cents per pound of the normal yield per acre of cotton for the farm for each acre in the cotton acreage allotment; or, if the acreage planted to cotton is less than 80 percent of the cotton acreage allotment and the county committee finds that the failure to plant 80 percent of such cotton acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to cotton.

2. *Corn.*—10 cents per bushel of the normal yield per acre of corn for the farm for each acre in the corn acreage allotment; or, if the acreage planted to corn is less than 80 percent of the corn acreage allotment and the county committee finds that the failure to plant 80 percent of such corn acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to corn.

3. *Wheat.*—12 cents per bushel of the normal yield per acre of wheat for the farm for each acre in the wheat acreage allotment; or, if the acreage planted to wheat is less than 80 percent of the wheat acreage allotment and the county committee finds that the failure to plant 80 percent of such wheat acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to wheat.

4. *Tobacco.*—The following number of cents per pound of the normal yield per acre of tobacco for the farm for each acre in the tobacco acreage allotment for each of the following kinds of tobacco:

(*a*) Burley	0.5 cent.
(*b*) Flue-cured	1.0 cent.
(*c*) Fire-cured and dark air-cured	1.5 cents.
(*d*) Cigar filler and binder	1.0 cent.
(*e*) Georgia-Florida Type 62	1.5 cents.

Provided, That in the case of cigar filler and binder tobacco, if the acreage planted to such kind of tobacco is less than 80 percent of the acreage allotment therefor and the county commitee finds that the failure to plant 80 percent of the acreage allotment was not due to flood, drought, or plant-bed diseases, the payment shall be computed on 125 percent of the acreage planted to cigar filler and binder tobacco.

5. *Potatoes.*—3 cents per bushel of the normal yield per acre of potatoes for the farm for each acre of potatoes planted on the farm in 1938 not in excess of the potato acreage allotment.

6. *Peanuts.*—0.2 of a cent per pound of the normal yield per acre of peanuts for the farm for each acre in the peanut acreage allotment.

7. *Rice.*—0.125 of a cent per pound of the normal yield per acre of rice for the farm for each acre in the rice acreage allotment, or if the acreage planted to rice is less than 80 percent of the rice acreage allotment and the county committee finds that failure to plant 80 percent of such rice acreage allotment was not due to flood or drought, for 125 percent of the acreage planted to rice.

8. *General soil-depleting crops on class A farms.*—$1.25 per acre, adjusted for productivity, for each acre in the general crop acreage allotment in excess of one-half of the sum of the cotton, Burley tobacco and fire-cured and dark air-cured tobacco acreage allotments established for the farm.

B. *Restoration land goals.*—1. 50 cents per acre for each acre in the restoration land goal established for the farm.

C. *Payments in connection with soil-building practices.*—1. 50 cents per acre of cropland in the farm in excess of the total soil-depleting acreage allotment for the farm (applicable only to class A farms).

2. $1.50 per acre of the average acreage of land on which commercial vegetables were grown on the farm in 1936 and 1937.

3. $2.00 per acre of commercial orchards on the farm January 1, 1938.

4. (*a*) 2 cents per acre of noncrop open pasture land in the farm, plus $1.00 for each animal unit of grazing capacity (on a 12-month basis) of such pasture, in the North Central Region and in Kansas, Oklahoma, Texas, and California.

(*b*) 3 cents per acre of noncrop open pasture land plus 75 cents for each animal unit of grazing capacity (on a 12-month basis) of such pasture, in North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Idaho, Oregon, and Washington.

(*c*) 25 cents per acre of fenced noncrop open pasture land in excess of one-half of the number of acres of cropland in the farm which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land, in the East Central Region and States other than Texas and Oklahoma in the Southern Region.

(*d*) 40 cents per acre of fenced noncrop open pasture land, in excess of one-half of the number of acres of cropland in the farm, which is capable of maintaining during the normal pasture season at least one animal unit for each five acres of such pasture land, in the Northeast Region.

5. 70 cents per acre of cropland on any class B farm in excess of the sum of (1) the corn, wheat, rice, potato, peanut, cigar filler and binder tobacco, and Georgia-Florida Type 62 tobacco acreage allotments established for the farm; (2) the acreage of sugar beets and sugarcane for sugar grown on the farm in 1938; (3) two times the cotton, flue-cured tobacco, Burley tobacco, and fire-cured and dark air-cured tobacco acreage allotments established for the farm; and (4) in the Western Region the normal acreage of summer fallow for the farm, not in excess of the wheat acreage allotment established for the farm.

SEC. V. *Payments for partial performance.*—Payments computed for any farm under the provisions of Section IV shall be subject to all the following deductions which are applicable to the farm:

A. *Deductions for excess acreages of soil-depleting crops.*—1. *Cotton.*—5 cents per pound of the normal yield for the farm for each acre of cotton in excess of the cotton acreage allotment.

2. *Corn.*—5 times the payment rate specified in section IV for the normal yield for the farm on the acreage by which the corn acreage exceeds the corn acreage allotment.

3. *Tobacco, potatoes, and peanuts.*—(*a*) 5 times the payment rate specified in Section IV for the normal yield for the farm on the acreages by which the fire-cured and dark air-cured tobacco acreages exceed the acreage allotment for such types of tobacco.

(*b*) 10 times the payment rate specified in Section IV for the normal yield for the farm on the acreages by which the acreages of flue-cured tobacco, Burley tobacco, cigar filler and binder tobacco, Georgia-Florida Type 62 tobacco, potatoes, and peanuts for market exceed the respective acreage allotments established for such crops, and on farms for which potato acreage allotments are not established in designated commercial areas on each acre by which the acreage of potatoes for market exceeds three acres.

4. *Rice.*—8 times the payment rate specified in Section IV for the normal yield for the farm on the acreage by which the rice acreage exceeds the rice acreage allotment.

5. *Commercial vegetables.*—In counties designated by the Agricultural Adjustment Administration as counties where commercial vegetables and potatoes or commercial vegetables and cigar filler (type 41) or binder (types 51, 52, and 53) tobacco are grown generally on the same farms, a deduction shall be made from the payment with respect to any farm having a potato or cigar filler and binder tobacco acreage allotment, for each acre on which commercial vegetables are grown in 1938 in excess of the annual average acreage on which commercial vegetables were grown on the farm in 1936 and 1937 (adjusted, where necessary, for the effect of abnormal weather conditions on plantings in such years), such deduction to be at the rate applicable to the farm under this section V with respect to potatoes or cigar filler and binder tobacco, whichever is less. On farms where adjustments for abnormal weather conditions are made in the acreage of commercial vegetables grown in 1936 and 1937 as provided in this item 5, such adjusted acreage shall also be used under item 2 of subsection C of Section IV in computing the payment with respect to the farm.

6. *Total soil-depleting acreage allotments.*—The following applicable rate for each acre of soil-depleting crops in excess

of the total soil-depleting acreage allotment, less the acreages for which deductions are made under items 1 to 5, inclusive, of this subsection A:

(*a*) 8 times the rate of payment with respect to the wheat acreage allotment if a wheat acreage allotment is established for the farm.

(*b*) 8 times the rate of payment with respect to the general soil-depleting acreage allotment if the farm is a class A farm and a wheat acreage allotment is not established therefor.

(c) $6.00 per acre if the farm is a class B farm and a cotton, corn, tobacco, peanut, potato or rice acreage allotment but no wheat acreage allotment is established for the farm.

B. *Deductions for failure to carry out soil-building practices and conservation measures.*—1. $1.50 for each unit by which the soil-building goal is not reached.

2. $1.00 for each acre of restoration land on which there are not carried out in 1938 conservation measures specified by the county committee in accordance with instructions issued by the Agricultural Adjustment Administration.

C. *Deduction for failure to prevent wind and water erosion.*—$1.00 for each acre of land, other than restoration land, in an area designated by the Agricultural Adjustment Administration as subject to serious wind or water erosion hazards, with respect to which there are not adopted in 1938 methods recommended by the State committee and approved by the Agricultural Adjustment Administration for the prevention of wind or water erosion.

D. *Deduction for breaking out of native sod.*—$3.00 for each acre of native sod or any other land which has been cropped but is not classified as cropland or pasture land which, in areas designated by the Agricultural Adjustment Administration as being areas subject to serious wind erosion or areas containing large acreages unsuited to continuing production of cultivated crops, is broken out during the period November 1, 1937, to October 31, 1938, inclusive, unless the breaking out of such land is approved by the county committee as a good farming practice and an equal acreage of cropland on the same farm is restored to permanent vegetative cover, such acreage of cropland to be in addition to that designated as restoration land.

SEC. VI. *Division of payments and deductions.*—A. *Payments and deductions in connection with acreage allotments and restoration land goals.*—The net payment or net deduction computed for any farm with respect to the corn, cotton, rice, wheat, tobacco, peanut, potato or general crop acreage allotment shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares) that such persons are entitled, at the time the crop is harvested, to share in the proceeds (other than a fixed commodity payment) of the corn, cotton, rice, wheat, tobacco, peanut, potato or general crops, respectively, grown on the farm in 1938.

The net payment or net deduction computed for any farm with respect to the restoration land goal shall be divided in the same proportion that any payment with respect to the wheat acreage allotment for such farm is divided among landlords, tenants, and sharecroppers, provided that if no payment is computed with respect to a wheat acreage allotment for such farm, payment with respect to the restoration land goal shall be divided in the same proportion that any payment in connection with the general crop acreage allotment for such farm is, or would be, divided among landlords, tenants, and sharecroppers. In the event that restoration land is designated for a farm which is not operated by a tenant in 1938, payment, if any, with respect to such restoration land goal shall be made to the owner of such farm.

In computing such net payments and net deductions with respect to acreage allotments and restoration land goals, the deduction with respect to commercial vegetables (item 5, subsection A, Section V) shall be regarded as a deduction with respect to the potato acreage allotment and the cigar filler (type 41) or binder (types 51, 52, and 53) tobacco acreage allotment, and the total amount of deductions computed under Section V with respect to (1) soil-depleting crops grown in excess of the total soil-depleting acreage allotment (item 6, subsection A); (2) failure to prevent wind and water erosion (subsection C); and (3) breaking out of native sod (subsection D) shall be regarded (a) as deductions with respect to the wheat acreage allotment and the general crop acreage allotment on class A farms; (b) as deductions with respect to the wheat acreage allotment on class B farms for which a wheat acreage allotment is established; (c) as deductions with respect to individual crop acreage allotments and the restoration land goal on class B farms for which a wheat acreage allotment is not established; or (d) as deductions with respect to the soil-building goal on class B farms for which no individual crop acreage allotments or restoration land goal is established.

In the event that corn, cotton, rice, wheat, tobacco, peanuts, potatoes or general crops are not harvested in 1938 on the farm the payment, if any, with respect to the acreage allotment for such crop, or group of crops, shall be divided among the landlords, tenants, and sharecroppers in the same proportion that the county committee determines that such persons would have shared in the proceeds of such crop had such crop been harvested on the farm in 1938.

B. *Payments with respect to soil-building practices.*—The amount of payment earned in connection with the soil-building goal for the farm shall be paid to the landlord, tenant or sharecropper who carried out the soil-building practices. If the county committee determines that more than one such person contributed to the carrying-out of soil-building practices on the farm in 1938, such payment shall be divided in the proportion that the units contributed by each such person to such practices bears to the total units of such practices carried out on the farm in 1938. Each person contributing to the practice carried out on a particular acreage shall be deemed to have contributed equally to the units of such practice unless such persons establish to the satisfaction of the county committee that their respective contributions thereto were not in equal proportion, in which event such unit shall be divided in the proportion which the county committee determines each such person contributed thereto.

C. *Proration of net deductions.*—If with respect to any farm the sum of the net payments computed for all persons on the farm exceeds the sum of the net deductions computed for all persons on the farm, the net deduction computed for any person on the farm shall be prorated among the other persons on the farm for whom a net payment is computed in the proportion in which the net payment computed for any person is of the sum of the net payments computed for all persons on the farm. If, with respect to any farm the sum of the net deductions computed for all persons on the farm equals or exceeds the sum of the net payments computed for all persons on the farm, no payment will be made with respect to such farm and the amount of such net deductions in excess of the net payments shall be prorated among the persons on the farm in the proportion which the net deduction computed for any person is of the sum of the net deductions computed for all persons on the farm.

SEC. VII. *Increase in small payments.*—The total payment computed under Sections IV to VI, inclusive, for any person with respect to any farm shall be increased as follows:

(1) Any payment amounting to 71 cents or less shall be increased to $1.00;

(2) Any payment amounting to more than 71 cents but less than $1.00 shall be increased by 40 percent;

(3) Any payment amounting to $1.00 or more shall be increased in accordance with the following schedule:

Amount of payment computed	Increase in payment	Amount of payment computed	Increase in payment
$1.00 to $1.99	$0.40	$32.00 to $32.99	$10.40
$2.00 to $2.99	.80	$33.00 to $33.99	10.60
$3.00 to $3.99	1.20	$34.00 to $34.99	10.80
$4.00 to $4.99	1.60	$35.00 to $35.99	11.00
$5.00 to $5.99	2.00	$36.00 to $36.99	11.20
$6.00 to $6.99	2.40	$37.00 to $37.99	11.40
$7.00 to $7.99	2.80	$38.00 to $38.99	11.60
$8.00 to $8.99	3.20	$39.00 to $39.99	11.80
$9.00 to $9.99	3.60	$40.00 to $40.99	12.00
$10.00 to $10.99	4.00	$41.00 to $41.99	12.10
$11.00 to $11.99	4.40	$42.00 to $42.99	12.20
$12.00 to $12.99	4.80	$43.00 to $43.99	12.30
$13.00 to $13.99	5.20	$44.00 to $44.99	12.40
$14.00 to $14.99	5.60	$45.00 to $45.99	12.50
$15.00 to $15.99	6.00	$46.00 to $46.99	12.60
$16.00 to $16.99	6.40	$47.00 to $47.99	12.70
$17.00 to $17.99	6.80	$48.00 to $48.99	12.80
$18.00 to $18.99	7.20	$49.00 to $49.99	12.90
$19.00 to $19.99	7.60	$50.00 to $50.99	13.00
$20.00 to $20.99	8.00	$51.00 to $51.99	13.10
$21.00 to $21.99	8.20	$52.00 to $52.99	13.20
$22.00 to $22.99	8.40	$53.00 to $53.99	13.30
$23.00 to $23.99	8.60	$54.00 to $54.99	13.40
$24.00 to $24.99	8.80	$55.00 to $55.99	13.50
$25.00 to $25.99	9.00	$56.00 to $56.99	13.60
$26.00 to $26.99	9.20	$57.00 to $57.99	13.70
$27.00 to $27.99	9.40	$58.00 to $58.99	13.80
$28.00 to $28.99	9.60	$59.00 to $59.99	13.90
$29.00 to $29.99	9.80	$60.00 to $185.99	14.00
$30.00 to $30.99	10.00	$186.00 to $199.99	Increase to 200.00
$31.00 to $31.99	10.20	$200.00 and over	No increase

SEC. VIII. *Reductions incurred on other farms.*—A. *Other farms in the same county.*—If the deductions computed under Section V with respect to any farm exceed the payment for full performance on such farm computed under Section IV, any person's share of the amount by which such deductions exceed such payments shall be deducted from such person's share of the payments which would otherwise be made to him with respect to any other farms in the county which he operates or rents to other persons for a share of the crops produced thereon.

B. *Other farms in the State.*—If the deductions computed for any person with respect to one or more farms in a county exceed the payments computed for such person on other farms in the county, the amount of such excess deductions shall be deducted from the payments computed for such person with respect to any other farms in the State which he operates or rents to other persons for a share of the crops produced thereon, if the State committee finds that the crops grown and practices adopted on the farms with respect to which such deductions are computed are such as substantially to offset the contribution to the program made on such other farms.

SEC. IX. *Deduction for association expenses.*—There shall be deducted pro rata from the payments with respect to any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred by the county agricultural conservation association in the county in which the farm is located.

SEC. X. *Materials furnished as grants of aid.*—Wherever it is found practicable limestone, superphosphate, trees, seeds, and other materials, upon request of the producer, may be furnished by the Agricultural Adjustment Administration as grants of aid to be used in carrying out approved soil-building practices which shall be counted toward meeting the soil-building goal for the farm. Wherever such materials are furnished, a deduction from the payment for the farm shall be made in the amount of the approximate cost of such material to the Agricultural Adjustment Administration. Such deduction shall be applied first to the payment computed for the person to whom such materials are furnished, and the balance, if any, of such deduction shall be prorated among the payments to other persons sharing in the payment with respect to the farm on which such materials were used.

In making a request for materials pursuant to this section the producer to whom such materials are furnished shall agree that in the event the amount of the deduction for the materials exceeds the amount of the payment with respect to the farm the amount of such difference shall be repaid by him to the Secretary.

SEC. XI. *General provisions relating to payments.*—A. *Payment restricted to effectuation of purposes of the program.*—All or any part of any payment which otherwise would be made to any person under the 1938 Agricultural Conservation Program may be withheld (1) if he has adopted any practice which the Secretary determines tends to defeat any of the purposes of the program, (2) if, by means of any corporation, partnership, estate, trust, or any other device, or in any manner whatsoever, he has offset, or has participated in offsetting, in whole or in part, the performance for which such payment is otherwise authorized, or (3) if, with respect to forestland or woodland owned or controlled by him, he adopts any practice which the regional director finds is contrary to sound conservation practices. If on any class B farm for which no wheat, cotton, corn, tobacco, peanut, potato, or rice acreage allotment is established, the acreage seeded to soil-depleting crops in 1938 is in excess of 50 acres and in excess of the total soil-depleting acreage allotment, the deduction provided in paragraph 6 (c) of subsection A of Section V shall be applicable to such farm if the county committee determines that the increase in soil-depleting crops was not due to the rotation of crops normally followed on the farm.

In areas designated by the Agricultural Adjustment Administration as areas subject to serious wind erosion in 1938, no payment will be made to any person who the county committee finds has been negligent and careless in his farming practices in 1938 to the extent that any farm which he owns or operates has become a wind erosion hazard to the community in which such farm is located.

B. *Payment computed and made without regard to claims.*—Any payment or share of payment shall be computed and made without regard to questions of title under State law, without deduction of claims for advances (except as provided in subsection D of this Section XI) and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

C. *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.*—If on any farm in 1938 any change of the arrangements which existed on the farm in 1937 is made between the landlord and the tenants or sharecroppers and such change would cause a greater proportion of the payments to be made to the landlord under the 1938 Agricultural Conservation Program than would have been made to the landlord for performance on the farm under the 1937 Agricultural Conservation Program, payments to the landlord under the 1938 Agricultural Conservation Program with respect to the farm shall not be greater than the amount that would have been paid to the landlord if the arrangements which existed on the farm in 1937 had been continued in 1938, if the county committee certifies that the change is not justified and disapproves such change.

If, on any farm, the number of sharecroppers or share tenants in 1938 is less than the average number on the farm during the years 1935 to 1937, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made, if the county committee certifies that the reduction is not justified and disapproves such reduction.

If the State committee finds that any person who files an application for payment pursuant to the provisions of the 1938 Agricultural Conservation Program has employed any other scheme or device, the effect of which would be or has been to deprive any other person of any payment under any agricultural conservation program to which such other person would normally be entitled, the Secretary may withhold in whole or in part from the person participating in or employing such a scheme or device, or require such person to refund in whole or in part, the amount of any payment which has been or would otherwise be made to such person in connection with the 1938 Agricultural Conservation Program.

D. *Assignments.*—Any person who may be entitled to any payment in connection with the 1938 Agricultural Conservation Program may assign his interest in such payment as security for cash loaned or advances made for the purpose of financing the making of a crop in 1938. No such assignment will be recognized unless (1) the assignment is made in writing on a form prescribed by the Agricultural Adjustment Administration and is acknowledged by the farmer before the county agricultural extension agent and filed with such agent; (2) the farmer files with the assignment an affidavit showing that the assignment is made to pay or secure an indebtedness incurred in connection with financing the making of a 1938 crop and not to pay or secure any pre-existing indebtedness; and (3) the person to whom such assignment is made certifies that the payment is being assigned without discount for such purpose.

Nothing in the provisions of this section shall be construed to give an assignee a right to any payment other than that to which the farmer is entitled nor shall the Secretary or any disbursing agent be subject to any suit or liability if payment is made to the farmer without regard to the existence of any such assignment.

E. *Excess cotton acreage.*—Any person who has an interest in a farm on which cotton is planted in 1938 and who makes application for payment with respect to any farm, shall file with such application a statement verified by affidavit that the applicant has not knowingly planted or caused to be planted during 1938 cotton on land in any farm in which he has an interest in excess of the cotton acreage allotment established for the farm for 1938 under Section 344 of the Agricultural Adjustment Act of 1938 in connection with cotton marketing quotas, and that cotton was not planted in excess of such allotment by his authority or with his consent.

Any person who knowingly plants cotton on his farm in 1938 on acreage in excess of the cotton acreage allotment for the farm established in connection with cotton marketing quotas under Section 344 of the Agricultural Adjustment Act of 1938 and regulations issued in connection therewith shall not be eligible for any payment under the provisions of the 1938 Agricultural Conservation Program. A person shall be presumed to have knowingly planted cotton on his farm on acreage in excess of such farm cotton acreage allotment if notice of his allotment is mailed to him prior to the completion of the planting of cotton on the farm unless the farmer establishes the fact that the excess acreage planted to cotton was due to his lack of knowledge of the number of acres in the tract(s) planted to cotton. Such notice, if mailed to the operator of the farm, shall be deemed to be notice to all persons sharing in the production of cotton thereon in 1938.

F. *Use of soil-conserving crops for market.*—No payment will be made with respect to any farm unless on such farm in 1938 an acreage, not devoted to soil-depleting crops, is withheld from the production of soil-conserving crops for market, equal to the acreage by which the normal acreage of soil-depleting crops on such farm exceeds the larger of (1) the total soil-depleting acreage allotment for the farm or (2) the acreage devoted to soil-depleting crops on the farm in 1938: *Provided*, That payment shall not be denied any farmer for using such soil-conserving crops for market (1) if in the county in which the farm is located the number of cows kept for the production of milk or products thereof for market does not exceed the normal number of such cows; (2) if on such farm the number of cows kept for the production of milk or the products thereof for market does not exceed the normal number of such cows; or (3) if the Agricultural Adjustment Administration determines either (a) that the farmer has substantially complied with the provisions of this paragraph, or (b) that the county, as a whole, is in substantial compliance with such provisions.

Any farmer shall be deemed to have substantially complied with the provisions of the foregoing paragraph either (1) if the increase above normal in the number of dairy cows on his farm does not exceed two cows; or (2) if none of the soil-conserving crops to which such provisions are applicable is used for market other than through the disposition of dairy livestock for slaughter or through the disposition of less than ten percent of the milk, or products thereof, produced on the farm. A county, as a whole, shall be deemed to be in substantial compliance with such provisions if the increase above normal in the number of dairy cows in the county does not exceed ten percent.

The normal acreage of soil-depleting crops and the normal number of cows kept for the production of milk, or the products thereof, for market shall be determined for any farm in accordance with instructions issued by the Agricultural Adjustment Administration, and the Agricultural Adjustment Administration shall determine from the latest available statistics of the Department and shall announce the counties in which the number of cows kept for the production of milk, or the products thereof, for market exceeds by more than ten percent the normal number of such cows.

As used in this subsection F, the term "for market" means for disposition by sale, barter, or exchange, or by feeding (in any form) to dairy livestock which, or the products of which, are to be sold, bartered, or exchanged, and such term shall not include consumption on the farm. An agricultural commodity shall be deemed to be consumed on the farm if consumed by the farmer's family, employees, or household, or if fed to poultry or livestock other than dairy livestock on his farm, or if fed to dairy livestock on his farm and such dairy livestock, or the products thereof, are to be consumed by his family, employees, or household. As used in this subsection F, the term "soil-conserving crops" means grasses and legumes grown on cropland except those classified as soil-depleting under Section XIII hereof.

SEC. XII. *Application for payment.*—A. *Persons eligible to file applications.*—An application for payment with respect to a farm may be made by any person for whom, under the provisions of Section VI a share in the payment with respect to the farm may be computed and (1) who at the time of harvest is entitled to share in the crops grown on the farm under a lease or operating agreement, or (2) who is owner of such farm and participates thereon in 1938 in carrying out approved soil-building practices or in carrying out conservation measures designed to promote restoration of a permanent vegetative cover on restoration land.

B. *Time and manner of filing application and information required.*—Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm which such person is operating or renting to another person for a share of the crops grown thereon, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the regional director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms. Such notice shall be given by mailing the same to the office of each county committee and making copies of the same available to the press.

C. *Applications for other farms.*—If a person has the right to receive all or a portion of the crops or proceeds therefrom, produced on more than one farm in a county and makes application for payment with respect to one of such farms, such person must make application for payment with respect to all such farms which he operates or rents to other persons. Upon request by the State committee such person shall also file with the committee such information as it may request regarding any other farm in the State with respect to which he has the right to receive all or a portion of the crops or proceeds thereof.

SEC. XIII. *Soil-Depleting crops.*—Land devoted in 1938 to any of the following crops or uses or such other similar crops and uses as are designated by the Agricultural Adjustment Administration shall be classified as soil-depleting.

A. Land planted to the following crops for harvest in 1938:

1. Corn (including field corn, sweet corn, and popcorn, but excluding sewn or close-drilled corn used as a cover crop or green manure crop).
2. Tobacco (except that Georgia-Florida Type 62 tobacco shall be classified as provided in the 1938 Agricultural Conservation Program Bulletin, Supplement No. 2).
3. Grain sorghums.
4. Cotton.
5. Sugar beets.
6. Sugarcane.
7. Rice.
8. Peanuts harvested for nuts.
9. Commercial mustard.
10. Hemp.
11. Broomcorn.
12. Mint.
13. Mangels and cowbeets.
14. Cultivated sunflowers.
15. Truck and vegetable crops (including strawberries, melons, and sweetpotatoes) and their seeds.
16. Potatoes.
17. Bulbs and flowers.
18. Safflower.
19. Field beans.
20. Canning peas.

B. Land planted to wheat harvested for grain or hay in 1938 or any other land planted to wheat between August 1, 1937 and July 31, 1938, except:

1. When, in the North Central Region, the acreage of such crop seeded in the fall of 1937 is pastured before May 1, 1938 and thereafter sufficiently pastured or tilled to prevent grain formation, or is tilled before May 1, 1938 in preparation for another crop or for a use other than the harvesting of the acreage of such crop for grain or hay; or
2. When, in humid areas other than in the North Central Region designated by the Agricultural Adjustment Administration, the acreage of such crop is used as a nurse crop or cover crop and is not harvested for grain or hay; or
3. When in designated non-humid areas of Texas, Oklahoma, Kansas, Colorado, and New Mexico, the acreage of such crop seeded in the fall of 1937 is tilled, before a date to be specified by the Agricultural Adjustment Administration, in preparation for another crop or in connection with an approved conservation measure, *Provided*, That in such areas the conservation measure to be instituted before the specified date shall be approved by the county committee and the land to be so handled shall be designated in accordance with instructions issued by the Agricultural Adjustment Administration; or
4. When the acreage is seeded to true type winter wheat in the spring of 1938 (prior to June 15) on non-irrigated cropland and such crop is used only as a pasture or cover crop (applicable only in Washington, Oregon, Idaho, and Utah); or
5. When the acreage of such crop is used as a green manure crop in orchards, or on commercial vegetable or potato land or such other land as may be designated by the Agricultural Adjustment Administration.

C. Land planted to oats (except when used in Washington and Oregon as a support crop for vetch or Austrian field peas harvested for seed), barley, rye, flax, emmer, speltz, or mixtures of these crops between August 1, 1937 and July 31, 1938, except:

1. When a good stand and good growth of such crop is used as a green manure crop in orchards, or on commercial vegetable or potato land, or such other land as may be designated by the Agricultural Adjustment Administration; or
2. When such crop is used as a nurse crop or cover crop and is not harvested for grain or hay and not used in any area in any other manner determined by the Agricultural Adjustment Administration to be soil-depleting in such area.

D. Land planted in 1938 to buckwheat, sweet sorghums, Sudan grass, millet, or sown or close-drilled corn harvested for grain, seed, sirup, or silage, or used in any areas in any other manner determined by the Agricultural Adjustment Administration to be soil-depleting in such area.

E. Land planted in 1938 to field peas harvested for peas or soybeans harvested for seed for crushing, or used in any area in any other manner determined by the Agricultural Adjustment Administration to be soil-depleting in such area.

F. Land summer fallowed in the States of Washington, Oregon, Idaho, and Utah: *Provided, however,* That if such summer-fallowed acreage is seeded in 1938 to perennial grasses or perennial legumes in accordance with good farming practice such acreage shall not be classified as soil-depleting.

G. Land summer fallowed in any area if such summer-fallowed acreage is not protected from wind and water erosion by methods recommended by the State committee and approved by the Agricultural Adjustment Administration.

The acreage of land which is devoted consecutively to two or more of the above soil-depleting crops in 1938 shall be counted as follows: If only one of such crops reaches maturity such land shall be regarded as devoted to the crop reaching maturity. If none of such crops reaches maturity or if more than one of such crops reach maturity and an individual crop acreage allotment is established for only one of such crops, such land shall be regarded as devoted to the crop for which an individual crop acreage allotment is established. If none of such crops reaches maturity and individual crop acreage allotments are established for two or more of such crops, the land shall be regarded as devoted to the last planted of such crops for which an individual crop acreage allotment is established. If two or more of such crops reach maturity and individual crop acreage allotments are established for two or more of such crops reaching maturity, the land shall be regarded as devoted to each of the crops which reached maturity and for which an individual crop acreage allotment is established. If two or more of such crops reach maturity or if none of such crops reaches maturity and individual crop acreage allotments are not established for any of such crops the land shall be regarded as devoted to the last planted of such crops.

The acreage of land which is devoted simultaneously to two or more of the above soil-depleting crops shall be divided among such crops on the basis of the land determined, in accordance with instructions issued by the Agricultural Adjustment Administration, to be devoted to each.

In connection with determinations regarding the maturity of crops, canning peas will be deemed to have reached maturity when such crops are harvested for canning and field corn, sweet corn, and popcorn hogged off or cut for silage, fodder or other similar uses, will be deemed to have reached maturity.

If a corn acreage allotment is established for any farm, all acreages of field corn, sweet corn, and popcorn will be regarded as corn acreage for the purpose of determining whether the corn acreage allotment for such farm has been exceeded, except (1) any acreage of sweet corn contracted to be sold for canning; (2) any acreage of sweet corn sold for canning or roasting ears; and (3) any acreage of popcorn sold as popcorn.

In areas designated by the Agricultural Adjustment Administration as areas where cropland is commonly divided into regularly-shaped fields, in order for a portion of a field (other than cropland strip-cropped, strip-fallowed or contour farmed) not to be classified as soil-depleting such portion of the field must be in a solid block contiguous to the side or end of the field and the line between such portion and the remaining portion of the field must be straight.

Land devoted to volunteer crops harvested shall be classified as if such crops were planted.

SEC. XIV. *Soil-building practices.*—Such of the soil-building practices listed in the following schedule as the Agricultural Adjustment Administration determines are adapted to any region and should be encouraged in such region shall count toward the achievement of the soil-building goal to the extent indicated therein, when such practices are carried out in 1938 in areas designated by the Agricultural Adjustment Administration and in accordance with specifications issued by the regional director or by the State committee with the approval of the regional director. The areas designated for any soil-building practice shall be areas in which such practice is desirable and necessary as a conservation measure. The specifications issued shall be such as to assure that the soil-building practice will be performed in workmanlike manner and in accordance with good farming practice for the locality.

Practices carried out with labor, seed, trees, and materials furnished entirely by any Federal or State agency other than the Agricultural Adjustment Administration shall not be counted toward the achievement of the soil-building goal. If a portion of the labor, seed, trees, or other materials used in carrying out any practice is furnished by a State or Federal agency other than the Agricultural Adjustment Administration and such portion represents one-half or more of the total cost of carrying out such practice, such practice shall not be counted toward the achievement of the soil-building goal; if such portion represents less than half of the total cost of carrying out such practice, one-half of such practice shall be counted toward the achievement of the soil-building goal.

If trees are purchased from a Clark-McNary Cooperative State Nursery such purchases shall not be deemed to be paid for in whole or in part by a State or Federal agency.

SCHEDULE OF SOIL-BUILDING PRACTICES

A. Each of the following practices in the amounts specified shall be counted as one unit, provided that, when the materials specified in items 1, 2, or 3 are applied to biennial or perennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, or Natal grass seeded or grown in connection with a soil-depleting crop, only such proportionate part, if any, of the material applied shall be counted as is specified by the Agricultural Adjustment Administration.

1. Application of 300 pounds of 16-percent superphosphate (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

2. Application of 200 pounds of 50 percent muriate of potash (or its equivalent) to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

3. Application of 500 pounds of basic slag or rock phosphate to, or in connection with the seeding of, perennial or biennial legumes, perennial grasses, winter legumes, lespedeza, crotalaria, Natal grass, or permanent pasture.

4. Application of 300 pounds of gypsum containing 18-percent sulphur (or its sulphur equivalent).

5. Construction of 200 linear feet of standard terrace for which proper outlets are provided.

6. Construction of reservoirs and dams—15 cubic yards of material moved in making the fill or excavation.

7. Reseeding depleted pastures with good seed of adapted pasture grasses or legumes—10 pounds of seed.

8. Contour ridging of noncrop open pasture land—750 linear feet of ridge or terrace.

9. Application of one ton, air dry weight, of straw or equivalent mulching material, excluding barnyard and stable manure, in commercial orchards or on commercial vegetable land in areas designated by the regional director as areas in which straw normally costs more than $5.00 per short ton.

10. Application of not less than two tons, air dry weight, of straw or equivalent mulching materials, excluding barnyard and stable manure, per acre in commercial orchards or on commercial vegetable land.

11. Application of the following quantities of ground limestone or its equivalent in areas designated by the regional director as areas in which the average cost of ground limestone to farmers is:

(*a*) Not more than $2.50 per ton	2,000 lb.
(*b*) More than $2.50 but not more than $3.50 per ton	1,500 lb.
(*c*) More than $3.50 but not more than $5.00 per ton	1,000 lb.
(*d*) More than $5.00 per ton	800 lb.

12. Application of 1,000 pounds of finely ground limestone (at least 90 percent to pass through a 30-mesh sieve and all finer particles obtained in the grinding process to be included), except to peanuts and commercial vegetables, such limetone to be applied at the rate of not less than 500 pounds nor more than 1,000 pounds per acre.

13. Restoration of noncrop open pasture by nongrazing during the normal pasture season on an acreage equal to one-half of the number of acres of such pasture required to carry one animal unit for a 12-month period.

B. Each acre of the following shall be counted as one unit:

1. Seeding biennial legumes, perennial legumes, perennial grasses (other than timothy or redtop), or mixtures (other than a mixture consisting solely of timothy and redtop) containing perennial grasses, perennial legumes, or biennial legumes (except alfalfa and permanent pasture mixtures qualifying under practice No. 1 of subsection C of this Section XIV).

2. Seeding winter legumes, annual lespedeza, annual ryegrass, crotalaria, sesbania, or annual sweet clover.

3. Green manure crops and cover crops (excluding (1) lespedeza, (2) any crop for which credit is given in 1938 under any other practice, (3) wheat on nonirrigated land except in humid areas designated by the Agricultural Adjustment Administration, and (4) such other crops as may be determined as not qualifiable for any area by the Agricultural Adjustment Administration) of which a good stand and good growth is (1) plowed or disced under on land not subject to erosion, or if subject to erosion, such crop is followed by a winter cover crop, or (2) left on land subject to erosion or in orchards or on commercial vegetable or potato land, or on such other land as is designated by the Agricultural Adjustment Administration.

C. Each acre of the following shall be counted as two units:

1. Seeding hardy northern-grown domestic or Canadian alfalfa (applicable only in the Northeast Region).

2. Seeding permanent pasture mixtures containing a full seeding of legumes or grasses or both other than timothy and redtop (applicable only in the Northeast Region and on class B farms in the Southern Region).

3. Cultivating, protecting, and maintaining by replanting if necessary, a good stand of forest trees, planted between January 1, 1934, and January 1, 1938.

4. With prior approval of the county committee, improving a stand of forest trees under such approved system of farm woodlot management as is specified by the Agricultural Adjustment Administration.

5. Establishment of permanent vegetative cover by planting sod pieces of perennial grasses.

D. Each acre of the following shall be counted as five units:

1. Planting forest trees (including shrubs in protective plantings) provided such trees are protected and cultivated in accordance with good tree-culture practice.

2. Control of seriously infested plots of perennial noxious weeds, designated by the Agricultural Adjustment Administration, on cropland in organized weed control districts, in accordance with good chemical or tillage methods.

3. Applying sand free from stones or loam to a depth of at least one-half inch on fruiting cranberry bogs.

E. Each two acres of the following shall be counted as one unit:

1. Summer legumes not classified as soil-depleting (interplanted or grown in combination with soil-depleting crops) of which a good stand and a good growth is left on the land or plowed or disced under.
2. Renovation of perennial legumes and mixtures of perennial grasses and legumes.
3. Seeding timothy or redtop or a mixture consisting solely of timothy and redtop.
4. Protecting muck land subject to serious wind erosion by establishing or maintaining approved shrub windbreaks.

F. Each four acres of the following shall be counted as one unit:

1. Leaving on the land as a protection against wind erosion (only in wind erosion areas, which will be designated by the regional director) the stalks of sorghums or Sudan grass, classified as soil-depleting, where it is determined by the county committee that such cover is necessary as a protection against wind erosion and the operator's farming plan provides that such cover will be left on the land until the spring of 1939.
2. Restoration of farm woodlots, normally overgrazed, by non-grazing during the normal pasture season. Credit will not be allowed for more than two acres of woodland for each animal unit normally grazed on such woodland.
3. Contour listing or furrowing noncrop land.
4. Stripcropping other than for protection of summer-fallowed acreage.
5. Protecting summer-fallowed acreage from wind and water erosion by contour or basin listing, stripcropping, or incorporating small-grain stubble and straw into the surface soil. No credit will be given for this practice on any farm when carried out on light sandy soils or on soils in any area where destruction of the vegetative cover has resulted in the land becoming subject to serious wind erosion.

G. Each six acres of the following shall be counted as one unit:

1. Controlling soil erosion by contour cultivation of intertilled crops (applicable only in the Northeast Region).

H. Each eight acres of the following shall be counted as one unit:

1. Contour farming intertilled crops.
2. Contour listing or basin listing on the contour. No credit will be given for this practice when carried out on protected summer-fallowed acreage or as a part of the seeding operation.

I. Each ten acres of the following shall be counted as one unit:

1. Contour seeding of small-grain crops.
2. Basin listing (not on the contour). No credit will be given for this practice when carried out on protected summer-fallowed acreage or as a part of a seeding operation.
3. Natural vegetative cover or small-grain stubble of crops harvested in 1938 left on cropland not tilled after July 1, 1938, where it is determined by the county committee that such cover is necessary as a protection against wind erosion and the operator's farming plan provides that such cover will be left on the land until the spring of 1939 (applicable only in wind erosion areas in Texas, Oklahoma, Kansas, Colorado, and New Mexico, such areas to be designated by the Agricultural Adjustment Administration).

SEC. XV. *Normal yields and productivity indexes.*—A. *Normal yields of special soil-depleting crops.*—The county committee with the assistance of other local committees in the county shall determine for each farm for which a cotton, corn, wheat, rice, tobacco, peanut or potato acreage allotment is to be established a normal yield for each such crop in accordance with the provisions of this section and instructions issued by the Agricultural Adjustment Administration.

1. *Cotton.*—(a) Where reliable records of the actual average yield of cotton per acre for the years 1933 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted, in the manner provided in subsection C below, for abnormal weather conditions.

(b) If for any year of such five-year period records of the actual average yield are not available or there was no actual yield because cotton was not planted on the farm in such year, the county committee shall ascertain from all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices, and general fertility of the land, the yield which was or could reasonably have been expected on the farm for such year, and the yield so determined shall be used as the actual yield for such year under paragraph (a) of this subdivision 1.

(c) The average of all the yields so determined for all farms in a county or administrative area (weighted by cotton acreage allotments established for such farms) shall be adjusted so as to conform to the county (or administrative area) average yield established by the Secretary.

2. *Corn and wheat.*—(a) Where reliable records of the actual average yield per acre of corn or wheat, as the case may be, for the years 1928 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield for the farm shall be the average of such yields adjusted for trends and adjusted in the manner provided in subsection C below for abnormal weather conditions, and

(b) If for any year of such ten-year period reliable records of the actual average yield are not available or there was no actual yield because the commodity was not planted on the farm in such year, the county committee shall ascertain from all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drainage, production practices and general fertility of the land the yield which was or could reasonably have been expected on the farm for such year, and the yield so determined shall be used as the actual yield for such year under paragraph (a) of this subdivision 2. Where the productivity index most recently established for the farm in connection with the agricultural conservation programs is determined by the county committee to be an accurate reflection of the foregoing factors, the yield obtained by multiplying such index by the county average yield for such year shall be used as the actual yield for such year. If for any combination of years in such ten-year period reliable records of the actual average yield are not available or there was no actual yield during such years, the yield obtained by multiplying such index by the county average yield for such combination of years shall be the actual yield for each year of such combination of years.

(c) The average of all the yields so determined for all farms in such county (weighted respectively by the corn or wheat acreage allotments established for such farms) shall be adjusted so as to conform to the county average yield established by the Secretary.

3. *Rice.*—(a) Where reliable records of the actual average yield of rice per acre for the years 1933 to 1937, inclusive, are presented by the farmer or are available to the committee, the normal yield of rice for the farm shall be the average of such yields.

(b) If for any year of such five-year period records of the actual average yield are not available or there was no actual yield because rice was not planted on the farm in such year, the county committee shall ascertain from all the available facts, including the yield customarily secured on the farm, weather conditions, type of soil, drain-

age, production practices, and general fertility of the land, the yield which was or could reasonably have been expected on the farm for such year, and the yield so determined shall be used as the actual yield for such year under paragraph (a) of this subdivision 3.

(c) If the average of the normal yields for all lands planted to rice in 1938 in the State (weighted by the rice acreage allotments therein) exceeds the average yield per acre for the State during the period 1933 to 1937, inclusive, established by the Secretary, the normal yields for such lands, determined under paragraphs (a) and (b) of this subdivision 3, shall be reduced pro rata so that the average of such normal yields shall not exceed such State average yield.

4. *Tobacco, peanuts, potatoes.*—(a) The normal yield of tobacco, peanuts for market, or potatoes, as the case may be, for any farms shall be the yield which may reasonably be expected from the land devoted to the production of the crop in 1938 with due consideration for type of soil, drainage, production practices, general fertility of the land and the yield of such crop customarily secured on the farm. The average yield for all farms in any county with respect to any such crop shall not exceed the county average yield for the crop established by the Secretary.

B. *Productivity Indexes.*—The Secretary shall establish for each county a county productivity index or per-acre rate which will vary among the counties as the productivity of the cropland in the county devoted to the production of general soil-depleting crops varies as compared with the productivity of cropland in the United States devoted to the production of such crops.

A productivity index or rate per acre shall be established in accordance with instructions issued by the Agricultural Adjustment Administration for each class A farm by the county committee, subject to the approval of the State committee. Such productivity index or rate per acre shall be based upon the normal yield per acre for the farm of the major soil-depleting crop in the county as compared with the normal yield per acre for such crop in the county. Where the yield of the major soil-depleting crop in the county does not accurately reflect the productivity of a farm, the yield of a crop that reflects the productivity of the farm may be used, provided that the productivity index or rate per acre for such farm shall be adjusted, if necessary, so as to be fair and equitable as compared with the productivity indexes or rates per acre for other farms in the county having similar soils or productive capacity, and as contrasted with other farms in the county having different soils or productive capacity.

The average productivity index or per-acre rate for all farms in the county shall not exceed 100 or the county per-acre rate, respectively, unless it is determined that farms for which such indexes or rates per acre are established are not representative of all farms in the county and a variation from 100 or the county per-acre rate is approved by the Agricultural Adjustment Administration.

C. *Adjustment for abnormal weather conditions.*—In determining normal yields for cotton, corn, and wheat, respectively, if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural causes the yield in any year of the five-year or ten-year period, as the case may be, as determined under subsection A, 1 in the case of cotton, or subsection A, 2 in the case of corn or wheat, is less than 75 percent of the average computed without regard to such year, such year shall be eliminated in calculating the normal yield per acre.

SEC. XVI. *Appeals.*—Any person who considers himself aggrieved by any recommendation or determination of the county committee with respect to any farm in which he has an interest may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters: (a) eligibility to file an application for payment; (b) any soil-depleting acreage allotment or soil-building goal; (c) the division of payment; or (d) any other matter affecting the right to or the amount of his payment with respect to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.

SEC. XVII. *State and regional bulletins, instructions, and forms.*—The Agricultural Adjustment Administration shall prepare and issue such State and regional bulletins, instructions, and forms as may be required in administering the 1938 Agricultural Conservation Program.

SEC. XVIII. *Definitions.*—For the purposes of the 1938 Agricultural Conservation Program

Secretary means the Secretary of Agriculture of the United States.

Regional Director means the director of the division of the Agricultural Adjustment Administration in charge of the 1938 Agricultural Conservation Program in the region.

Northeast Region means the area included in the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

East Central Region means the area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

Southern Region means the area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

North Central Region means the area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

Western Region means the area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

State Committee means the group of persons designated within any State to assist in the administration of the 1938 Agricultural Conservation Program in such State.

County Committee means the group of persons elected within any county to assist in the administration of the 1938 Agricultural Conservation Program in such county.

County means the political or civil division of a State designated as a county or in the State of Louisiana as a parish, except that for the purposes of the 1938 Agricultural Conservation Program groups of townships in the political or civil divisions of Polk, Ottertail, and St. Louis in Minnesota, and Pottawattamie in Iowa may be designated as counties.

Person means an individual, partnership, association, corporation, estate, or trust, and, wherever applicable, a State, a political subdivision of a State, or any agency thereof.

Landlord means a person who owns land and rents such land to another person, or operates such land.

Sharecropper means a person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

Tenant means a person other than a sharecropper who rents land from another person (for cash, a fixed commodity payment, or a share of the proceeds of the crops) and is entitled under a written or oral lease or agreement to receive all or a share of the proceeds of the crops produced thereon.

Farm means all adjacent or nearby farm land under the same ownership which is operated by one person, including also:

1. Any other adjacent or nearby farm land operated by the same person (as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land), the inclusion of which is requested or agreed to, within the time and in the manner specified by the Agricultural Adjustment Administration, by the operator and all the owners who are entitled to share in the proceeds of the crops on any of the land to be included in the farm, which request and agreement shall be applicable to the designation of the land included in such farm both under the 1938 Agricultural Conservation Program and under the provisions of the Agricultural Adjustment Act of 1938; and

2. Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops:

Provided, That land not under the same ownership shall be included in the same farm only if the county committee determines that all of such land is customarily regarded in the community as constituting one farm. A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county or administrative area, as the case may be, in which the major portion of the farm is located.

Class A farms are farms for which general crop acreage allotments are established and include:

1. All farms in the North Central Region and in North Dakota, Kansas, Oklahoma, and Texas.

2. All farms in the following counties in Montana, Wyoming, Colorado, New Mexico, California, and Arkansas:

Montana.—Glacier, Pondera, Teton, Lewis and Clark, Broadwater, Gallatin, and all counties east thereof.

Wyoming.—Campbell, Converse, Crook, Goshen, Johnson, Laramie, Niobrara, Platte, Sheridan, Weston.

Colorado.—Larimer, Boulder, Jefferson, Teller, El Paso, Pueblo, Huerfano, Las Animas, and all counties east thereof.

New Mexico.—Colfax, Mora, San Miguel, Guadalupe, De Baca, Chaves, Eddy, and all counties east thereof.

California.—Butte, Colusa, Fresno, Glenn, Kern, Kings, Los Angeles, Madera, Merced, Monterey, Sacramento, San Joaquin, San Luis Obispo, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Tulare, Ventura, Yolo, Yuba, and that portion of Placer County lying west of the east boundary of Township 9 East, Mt. Diablo Meridian.

Arkansas.—Arkansas, Baxter, Benton, Boone, Carroll, Clay, Crawford, Franklin, Fulton, Grant, Greene, Independence, Johnson, Lawrence, Logan, Lonoke, Madison, Marion, Newton, Perry, Prairie, Randolph, Saline, Scott, Searcy, Sebastian, Sharp, Stone, Van Buren, Washington, and Yell.

3. All farms in Aroostook County, Maine, for which potato acreage allotments are established; and

4. All farms in the Northeast Region on which the average acreage of commercial vegetables grown on the farm in 1936 and 1937 exceeds 50 percent of the acreage of cropland in excess of the sum of the average acreages of potatoes and tobacco grown on the farm in 1936 and 1937.

Class B farms means all farms which are not class A farms.

Cropland means farm land which is tilled annually or in a regular rotation, excluding commercial orchards, restoration land, and any land which constitutes, or will constitute if such tillage is continued, a wind erosion hazard to the community, but including any other land which has been planted since January 1, 1930 to permanent pasture or forest trees and which was classified as cropland under the 1937 Agricultural Conservation Program, and including also land planted to noncommercial orchards other than abandoned orchards.

Restoration Land means farm land, in areas designated by the Agricultural Adjustment Administration as areas subject to serious wind erosion and areas containing large acreages unsuited to continued production of cultivated crops, which has been cropped at least once since January 1, 1930, and which is designated by the county committee as land on which, because of its physical condition and texture and because of climatic conditions, a permanent vegetative cover should be restored.

Commercial Orchards means the acreage in planted or cultivated fruit trees, nut trees, vineyards, hops, or bush fruits on the farm on January 1, 1938 (excluding non-bearing orchards and vineyards), from which the principal part of the production is normally sold.

Cotton means cotton the staple of which is normally less than 1⅛ inches in length. American-Egyptian cotton, Sea Island cotton, and any other cotton the staple of which is normally 1⅛ inches or more in length shall be considered as a general soil-depleting crop and not as cotton in connection with the 1938 Agricultural Conservation Program.

Commercial Vegetables means the acreage of vegetables or truck crops (including potatoes on farms where a potato acreage allotment is not established, sweetpotatoes, tomatoes, sweet corn, melons, cantaloupes, strawberries, and commercial bulbs and flowers, but excluding peas for canning and sweet corn for canning and artichokes for use other than as vegetables) of which the principal part of the production is sold to persons not living on the farm.

Peanuts for Market means only those peanuts separated from the vines by mechanical means and from which the principal part of the production is sold to persons off the farm.

Soil-Conserving Acreage means the total acreage of cropland in any class A farm in excess of the total soil-depleting acreage allotment established for the farm.

Noncrop Open Pasture means pasture land (other than rotation pasture land and range land) on which the predominant growth is forage suitable for grazing and on which the number or grouping of any trees or shrubs is such that the land could not fairly be considered as woodland.

Commercial Corn-Producing Area means the area included in the following counties of the States specified:

Illinois.—All counties.

Indiana.—All counties except Brown, Clarke, Crawford, Floyd, Harrison, Jefferson, Lawrence, Martin, Monroe, Ohio, Orange, Perry, Scott, Spencer, and Switzerland.

Iowa.—All counties.

Michigan.—Branch, Hillsdale, Lenawee, Monroe, and St. Joseph.

Minnesota.—Big Stone, Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Grant, Houston, Jackson, Kandiyohi, Lac Qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Meeker, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Redwood, Renville, Rice, Rock, Scott, Sibley, Steele, Stevens, Swift, Traverse, Wabasha, Waseca, Watonwan, Winona, Wright, and Yellow Medicine.

Missouri.—Adair, Andrew, Atchison, Audrain, Barton, Bates, Benton, Boone, Buchanan, Caldwell, Callaway, Cape Girardeau, Carroll, Cass, Chariton, Clark, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Knox, Lafayette, Lewis, Lincoln, Linn, Livingston, Macon, Marion, Mercer, Mississippi, Moniteau, Monroe, Montgomery, New Madrid, Nodaway, Pemiscott, Perry, Pettis, Pike, Platte, Putnam, Ralls, Randolph, Ray, St. Charles, St. Clair, Saline, Schuyler, Scotland, Scott, Shelby, Stoddard, Vernon, and Worth.

Nebraska.—All counties except Arthur, Banner, Blaine, Box Butte, Brown, Chase, Cherry, Cheyenne, Dawes, Deuel, Garden, Garfield, Grant, Holt, Hocker, Keith, Keyapaha, Kimball, Lincoln, Logan, Loup, McPherson, Morrill, Rock, Scotts Bluff, Sheridan, Sioux, Thomas, and Wheeler.

Ohio.—All counties except Ashtabula, Athens, Belmont, Carroll, Columbiana, Cuyahoga, Gallia, Geauga, Guernsey, Harrison, Hocking, Jackson, Jefferson, Lake, Lawrence, Lorain, Mahoning, Medina, Meigs, Monroe, Morgan, Musk-

ingum, Noble, Portage, Stark, Summit, Trumbull, Tuscarawas, Vinton, Washington, and Wayne.

South Dakota.—Bon Homme, Brookings, Charles Mix, Clay, Davison, Douglas, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook, Minnehaha, Moody, Turner, Union and Yankton.

Wisconsin.—Dane, Grant, Green, Iowa, Lafayette, and Rock.

Kansas.—Anderson, Atchison, Brown, Coffee, Crawford, Doniphan, Douglas, Franklin, Jackson, Jefferson, Jewell, Johnson, Leavenworth, Linn, Lyon, Marshall, Miami, Nemaha, Norton, Osage, Phillips, Pottawatomie, Republic, Riley, Shawnee, Smith, and Washington.

Kentucky.—Fulton, Henderson, Hickman, and Union.

General Soil-Depleting Crops means all soil-depleting crops other than sugar beets and sugarcane for sugar and those for which individual crop acreage allotments are established on the farm.

Animal Unit means one cow, one horse, five sheep, or five goats, two calves, or two colts, or the equivalent thereof.

Done at Washington, D. C., this 19th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-623; Filed, February 28, 1938; 3:57 p. m.]

SUGAR ACT OF 1937

NOTICE OF PUBLIC HEARINGS AND DESIGNATION OF PRESIDING OFFICERS

Territory of Hawaii

Pursuant to the authority contained in Sections 301 (b) and (d) and 511 of the Sugar Act of 1937 (Public No. 414, 75th Congress),

Notice is hereby given that public hearings will be held in the Territory of Hawaii as follows:

At Lihue, on the Island of Kauai, on April 8, 1938, at 9:30 a. m., in the Court Room of the Circuit Court of the Fifth Judicial Circuit of the Territory of Hawaii at Lihue.

At Honolulu, on the Island of Oahu, on April 11, 1938, at 9:30 a. m., in the Court Room of the United States District Court for the Territory of Hawaii, in the Federal Building at Honolulu.

At Wailuku, on the Island of Maui, on April 14, 1938, at 9:30 a. m., in the Court Room of the Circuit Court of the Second Judicial Circuit of the Territory of Hawaii at Wailuku.

At Hilo, on the Island of Hawaii, on April 18, 1938, at 9:30 a. m., in the Court Room of the United States District Court for the Territory of Hawaii at Hilo.

The purpose of such hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301 (b) of the said act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane during the calendar year 1938 on farms with respect to which applications for payments under the act are made, and, (2) pursuant to the provisions of section 301 (d) of the said act, fair and reasonable prices for the 1938 crops of sugarcane to be paid, under either purchase or toll agreements, by processors who as producers apply for payments under the said act; and to receive evidence likely to be of assistance to the Secretary of Agriculture in making recommendations, pursuant to the provisions of section 511 of the said act, with respect to the terms and conditions of contracts between producers and processors of sugarcane.

Any of such hearings, after being called to order at the time and place mentioned above, may for convenience be adjourned to such other place in the same city as the presiding officer may designate, and may be continued from day to day within the discretion of the presiding officer.

Robert H. Shields, Garibaldi Laguardia, and George W. Mills are hereby designated as presiding officers to conduct, either jointly or severally, the foregoing hearings.

Done at Washington, D. C., this 28th day of February, 1938. Witness my hand and the seal of the Department of Agriculture.

[SEAL] M. L. WILSON,
Acting Secretary of Agriculture.

[F. R. Doc. 38-622; Filed, February 28, 1938; 3:57 p. m.]

Farm Security Administration.

DESIGNATION OF COUNTIES

MARYLAND

MARCH 1, 1938.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendations of the Maryland State Farm Security Advisory Committee, the following county is hereby designated as that in which loans, pursuant to said Title, shall be made for the fiscal year ending June 30, 1938:

Queen Annes.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 38-634; Filed, March 1, 1938; 12:48 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Order No. 34]

IN THE MATTER OF UNIFORM SYSTEMS OF ACCOUNTS FOR COMMON CARRIERS BY WIRE AND RADIO

The Commission at a meeting held on February 21, 1938, adopted the following order:

The Commission having under consideration the matter of uniform systems of accounts for common carriers by wire and radio;

Whereas recently pursued studies relating to the accounting for pensions and other forms of employees' benefits are indicative of the desirability of the institution or modification of certain pertinent accounting regulations; and

Whereas it appears that the most desirable results in this respect, from the viewpoints of employees, users, investors, and efficient management, can be obtained only if the Commission has readily accessible detailed knowledge of all features of the benefit plans that have been adopted by such carriers:

Now, therefore, particularly in view of the provisions of section 220 (a), regarding the prescribing by the Commission of any and all accounts, records, and memoranda; the provisions of section 219 (b), regarding the filing of special reports; and all other pertinent sections of the Communications Act of 1934:

It is ordered, That every common carrier by wire or radio subject to the said Act shall at the time, or within the limits of time, hereinafter stipulated, supply the following information:

1. Irrespective of the plan of related accounting now or at any time pursued, copies of the text (or if such does not exist, a comprehensive outline) of the original plan (adopted by respondent or to which respondent is or was a party) for pensions, sick benefits, disability benefits, death bene-

fits, termination allowances, or any other benefits, paid or payable to active or retired employees, their representatives or beneficiaries; together with copies of the text, the dates, and effective dates of all amendments, modifications, abolishments, or other changes in all such plans as now are, or have been at any time in force.

2. In connection with every such benefit plan, further detailed copies or (only when the word "copies" is not appropriate) statements; (1) on original basis and (2) with respect to the content, dates, and effective dates of all amendments, modifications, abolishments, and other changes; in the following particulars:

(*a*) The facts, if any, that in the respondent's judgment establish a contractual relationship requiring the payment of pensions or other benefits.

(*b*) The declaration of trust under which a pension or other benefit fund, if any, has been established.

(*c*) The actuarial formulae (or processes stated in simplified form) governing the creation and continuation of each such trust or other similar fund or provident or other similar reserve as may be or has been established with a view to the payment of pensions or other benefits.

(*d*) The plan of accounting for each of the types of benefits (1) paid or (2) regarding the eventual payment of which provision has been made in the accounts.

It is further ordered, That with respect to all the foregoing matters, other than future changes, responses be filed within the thirty days next following the date of this order; and that with respect to every future change (in a benefit plan, trust agreement, actuarial formula, plan of accounting, or other matter hereinbefore specified) made or definitely contemplated, the Commission be advised at the earliest practicable date, *Provided*, That, in the event of any change actually made, such filing shall be within the thirty days next following the effective date of such change: *And further provided* That, in the event that any change will involve or produce a "change in accounting", the change shall not be made until after filing of the appropriate detailed documentary copy or statement with this Commission for its consideration and such action as it deems appropriate.

It is further ordered, That with respect to the matters treated in this order "change in accounting" shall mean every change in the benefit plan, actuarial procedure, plan of accounting itself, or otherwise, that will involve or produce changes in the amounts periodically entering any account for any reason other than a change in the amount of a payroll.

It is further ordered, That nothing contained in this order shall be viewed as changing or in any way affecting the requirements of any uniform system of accounts effective under the provisions of the Communications Act of 1934, but, in order to avoid duplicative requirements,

It is further ordered, That any carrier, which in answer to any order, accounting regulation, or request of this Commission has supplied one or more of the items of information sought by this order, shall be viewed as having responded properly with respect to the particular item or items after having made specific reference in answer to the item under this order to the responsive data otherwise supplied.

It is further ordered, That, in the event that any or all of the requirements of this order are not applicable to a carrier subject to the Communications Act of 1934, a response stating such fact shall be filed with this Commission within the thirty days next following the date of this order and that a carrier's status in this respect shall in no manner affect its responsibility for subsequent reportings in the event of future adoption, change, or other significant event or circumstance.

It is further ordered, That the term "changes" hereinbefore used shall include the variation (1) in the terms of the benefit plan; (2) in the accounting for the benefits; or (3) elsewhere, due to social security legislation, but for the purposes of this order, the payment of taxes pursuant to the Social Security Act shall not of itself be viewed as constituting adoption of, or becoming a party to, a benefit plan.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 38-632; Filed, March 1, 1938; 11:53 a. m.]

FEDERAL HOME LOAN BANK BOARD.

AMENDMENT TO RULES AND REGULATIONS FOR FEDERAL SAVINGS AND LOAN ASSOCIATIONS

PERMITTING FEDERAL ASSOCIATIONS OPERATING UNDER A CHARTER IN THE FORM OF EXHIBIT K TO PURCHASE, MAKE AND SELL LOANS IF SUCH LOANS ARE INSURED BY THE FEDERAL HOUSING ADMINISTRATOR

Be it resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of the Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), Section 39 [1] of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended by adding a new subsection (d) at the end thereof to read as follows:

"(d) By this subsection the Board approves, from the date receipt is acknowledged by the Board of each application for such lending privilege, the loan plans provided by the National Housing Act, as amended, as other loan plans which Federal associations, operating under a charter in the form of Exhibit K annexed hereto, are authorized to use under Section 14 of their charter, to the extent of the percentage of the appraised value the members of the Federal association have authorized or may authorize loans to be made in an amount exceeding 75 per cent of the value of the home property securing the loan. Thereafter any such Federal association may originate, purchase and sell, subject to the provisions of Section 42 hereof, any first mortgage loans approved for insurance protection by the Federal Housing Administrator under the provisions of Title I or Title II of the National Housing Act, as amended, and the limitations of these regulations and its charter as to loans made under any other loan plan shall not apply thereto. The provisions of Section 5 (c) of Home Owners' Loan Act of 1933, as now or hereafter amended, shall apply to loans authorized by this subsection."

Be it further resolved, That pursuant to authority vested in the Federal Home Loan Bank Board by subsection (a) of Section 5 of Home Owners' Loan Act of 1933 (12 U. S. C. 1464 (a)), the matter within the parentheses in the next to the last sentence of paragraph (3) of subsection (c) of Section 41 [2] of the Rules and Regulations for Federal Savings and Loan Associations is hereby amended to read as follows:

"in no event greater than the percentum of appraised value permitted to be insured by the Federal Housing Administrator under the National Housing Act, as amended."

Be it further resolved, That, it being deemed that this amendment is of an emergency character, said amendment shall be effective immediately.

Adopted by the Federal Home Loan Bank Board on February 28, 1938.

[SEAL] R. L. NAGLE, *Secretary.*

[F. R. Doc. 38-629; Filed, March 1, 1938; 10:33 a. m.]

[1] 1 F. R. 2107.
[2] 1 F. R. 2108.

FEDERAL TRADE COMMISSION.

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 25th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3161]

IN THE MATTER OF GOLF BALL MANUFACTURERS' ASSOCIATION, AN UNINCORPORATED TRADE ASSOCIATION, ITS OFFICERS AS FOLLOWS: LAWRENCE B. ICELY, PRESIDENT, EDWARD C. CONLIN, VICE PRESIDENT, WILLIAM T. BROWN, SECRETARY AND TREASURER, ITS MEMBERS, AND A. G. SPALDING AND BROTHERS, A CORPORATION, JOHN WANAMAKER, INC., A CORPORATION, L. A. YOUNG GOLF COMPANY, A CORPORATION, WORTHINGTON BALL COMPANY, A CORPORATION, WILSON SPORTING GOODS COMPANY, A CORPORATION, U. S. RUBBER PRODUCTS COMPANY, A CORPORATION, DUNLOP TIRE AND RUBBER COMPANY, A CORPORATION, AND ACUSHNET PROCESS COMPANY, A CORPORATION, INDIVIDUALLY AND AS REPRESENTATIVE MEMBERS OF SAID ASSOCIATION, AND THEIR OFFICERS, AGENTS AND EMPLOYEES, PROFESSIONAL GOLFERS ASSOCIATION OF AMERICA, AN UNINCORPORATED ASSOCIATION, ITS OFFICERS AS FOLLOWS: GEORGE R. JACOBUS, PRESIDENT, JACK B. MACKIE, TREASURER, TOM WALSH, SECRETARY, ITS MEMBERS, AND C. M. IRWIN, AN INDIVIDUAL, TOM KERRIGAN, AN INDIVIDUAL, JOE BRADLEY, AN INDIVIDUAL, JIM DANTE, AN INDIVIDUAL, JACK FOX, AN INDIVIDUAL, JACK HAGEN, AN INDIVIDUAL, JOHN INGLIS, AN INDIVIDUAL, R. C. MACDONALD, AN INDIVIDUAL, ALEX MAIN, AN INDIVIDUAL, AND JACK FORRESTER, AN INDIVIDUAL, INDIVIDUALLY AND AS REPRESENTATIVE MEMBERS OF SAID ASSOCIATION, RESPONDENTS

FINDINGS AS TO THE FACTS AND CONCLUSION

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes" (the Federal Trade Commission Act) and pursuant to the provisions of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" (the Clayton Act), as amended by "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914 as amended (U. S. C. Title 15, Section 13), and for other purposes" (the Robinson-Patman Act), the Federal Trade Commission, on August 18th, 1937, issued, and subsequently served, its amended complaint in this proceeding upon the respondents named in the caption hereof, charging them with the use of unfair methods of competition in commerce, in violation of the provisions of said Federal Trade Commission Act, and with acts and practices in violation of Sub-Sections 2 (a), 2 (d), and 2 (f) of Section 2 of said Clayton Act as amended.

After issuance and service of said amended complaint, respondents filed their answers thereto, making general denial of the substantial allegations of the complaint. Subsequently all the respondents petitioned the Federal Trade Commission for permission to withdraw said answers and to file in lieu thereof substitute answers to the complaint, in which substitute answers respondents admitted, for the purposes of this proceeding only, all the material allegations of said complaint except the facts alleged in Paragraph Seven, sub-sections 1 and 2, and Paragraph Eight, sub-section 3, of Count I, and the same allegations as adopted and made a part of Paragraph One of Count II of the Amended Complaint—all of which allegations were severally denied. Pursuant to permission granted by the Commission, said original answers were withdrawn by said respondents and said substitute answers were filed in lieu thereof. Said respondents also consented therein that the Commission might proceed to make its findings of fact without further proceedings and that an order might issue and be served upon the respondents requiring them to cease and desist from the unfair methods of competition alleged in the complaint. The said Commission having duly considered the above and being fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

Findings as to the Facts

PARAGRAPH 1. The respondent, Golf Ball Manufacturers' Association, hereinafter for convenience referred to as "Manufacturers' Association," is an unincorporated trade association, with an office at 105 Nassau Street, in the City of New York, New York. Its officers are respondents Lawrence B. Icely, Edward C. Conlin and William T. Brown, President, Vice-President and Secretary-Treasurer, respectively. Its membership consists of manufacturers and wholesalers of golf balls. The "Manufacturers' Association" is a non-profit organization created for the purpose of promoting the welfare and interests of its membership.

PAR. 2. Respondent A. G. Spalding and Bros., is a corporation organized and existing by virtue of the laws of the State of New Jersey, with its main office and principal place of business located at 105 Nassau Street, in the City of New York, New York. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent John Wanamaker, Inc., is a corporation organized and existing by virtue of the laws of the State of Pennsylvania with its main office and principal place of business located at Chestnut Street, in the City of Philadelphia, Pennsylvania. It is, and for several years last past has been, engaged in the manufacture, purchase and sale of golf balls.

Respondent L. A. Young Golf Company is a corporation organized and existing under and by virtue of the laws of the State of Michigan, having an office and place of business located at 6545 St. Antoine Street, in the City of Detroit, Michigan. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent Worthington Ball Company, is a corporation organized and existing under and by virtue of the laws of the State of Ohio with an office and place of business located at Elyria, Ohio. It is, and for several years last past has been engaged in the manufacture and sale of golf balls.

Respondent Wilson Sporting Goods Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with an office and place of business located at 2037 Powell Avenue, in the City of Chicago, Illinois. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent U. S. Rubber Products Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware, with an office and place of business located at 1790 Broadway, in the City of New York, New York. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent Dunlop Tire and Rubber Company, is a corporation organized and existing under and by virtue of the laws of the State of Delaware, having an office located at 500 5th Avenue, in the City of New York, New York. It is, and for several years last past has been, engaged in the manufacture and sale of golf balls.

Respondent Acushnet Process Company, is a corporation organized and existing under and by virtue of the laws of the State of Massachusetts, with an office and place of business located in the City of New Bedford, Massachusetts. It is, and for several years last past has been engaged in the manufacture and sale of golf balls.

The above named respondents do not constitute the entire membership of the respondent "Manufacturers' Association" but are representative members thereof. All members of the respondent "Manufacturers' Association" were made parties respondent herein as a class of which those specifically named are representative of the whole. For con-

venience the above named respondents will hereinafter be referred to as members of the "Manufacturers' Association".

PAR. 3. The respondent members of the "Manufacturers' Association" cause their golf balls when sold to be transported to purchasers thereof located in the various states of the United States. They are in competition among themselves, except in so far as their said competition has been hindered, lessened, restricted or restrained or potential competition among them forestalled by their practices and methods hereinafter particularly described and set forth. There are other manufacturers and wholesalers of golf balls, who sell and distribute their said products in the various states of the United States, and who, in the ordinary course of their business, seek the same customers that are sought by the respondent members of the "Manufacturers' Association." These non-member manufacturers and wholesalers also cause their golf balls to be shipped and transported from the various points of manufacture and sale in certain states through and into other states of the United States. They are also in competition among themselves and with respondent members of the "Manufacturers' Association" except in so far as their said competition has been hindered, lessened, restricted or restrained or potential competition forestalled as a result of the use of the practices and methods by the parties respondent hereinafter described. The respondent "Manufacturers' Association" and its officers are not engaged in commerce, but are engaged in unfair methods, hereafter described, which directly affect competition among respondent members of the "Manufacturers' Association" and non-member manufacturers and wholesalers of golf balls, and also directly affect the competition in the sale of golf balls, between and among retail dealers located in the various states of the United States engaged in the retail sale of said products.

PAR. 4. The respondent, Professional Golfers' Association of America, hereinafter for convenience referred to as "PGA", is an unincorporated trade association, with an office at 14 East Jackson Boulevard, in the City of Chicago, Illinois. The officers of said respondent "PGA" are respondents George R. Jacobus, President, Jack B. Mackie, Treasurer, and Tom Walsh, Secretary. Respondent "PGA" is a non-profit association organized and created for the purpose of promoting the game of golf and the general welfare and interests of its members who are engaged in the sale of golf balls and golf equipment.

Its membership consists of approximately 1500 of an estimated total of 2500 professional golfers who are engaged in the retail sale of golf balls and golf equipment throughout the country. Among the members of said respondent "PGA" are respondents C. M. Irwin, Tom Kerrigan, Joe Bradley, Jim Dante, Jack Fox, Jack Hagen, John Inglis, R. C. MacDonald, Alex Main, and Jack Forrester, all individuals, engaged in the retail sale of golf balls and golf equipment. The above named members of said respondent "PGA" do not constitute the entire membership thereof but are representative members thereof. All members of respondent "PGA" were made respondents herein, as a class, of which those specifically named are representative of the whole. Said respondent members are hereinafter for convenience collectively referred to as respondent members of "PGA".

The respondent members of "PGA" are in competition with one another in the retail sale of golf balls to consumers in the various localities in which they respectively operate, except in so far as their said competition has been hindered, lessened, restricted or restrained or potential competition among them forestalled by the practices and methods of the parties respondent hereinafter specifically described and set forth. There are numerous other retailers of golf balls who are non-members of respondent "PGA" who are engaged in the sale of such products to consumers in the various localities and trade areas in the United States in competition with one another and with one or more of respondent members of "PGA", except in so far as such competition has been hindered, lessened, restricted or restrained or potential competition among them forestalled by the use of the practices and methods of the parties respondent hereinafter described. All or nearly all of respondent members of "PGA" and their competitors above mentioned are engaged in purchasing golf balls from manufacturers or wholesalers thereof which are transported from one state to and through other states to them as a result of such purchases and in reselling the same to customers located in the various trade areas in which they respectively operate. All of said respondent members of "PGA" are engaged in unfair methods, as hereinafter set forth, which directly and substantially affect competition among themselves, and between themselves and other retail dealers, and among the manufacturers and wholesalers of said products.

PAR. 5. The respondent members of the "Manufacturers' Association" own and control practically all the factories engaged in the production of golf balls in the United States and produce most of the golf balls sold and distributed in this country. The respondent members of "PGA" constitute a group of retailers of golf balls so large and influential in the trade as to be able by themselves and in cooperation with respondent members of the "Manufacturers' Association" to control and influence the flow of trade and channels of distribution in golf balls throughout the country, as well as the prices at which, and the terms and conditions under which non-member retailers of golf balls buy and resell such products.

PAR. 6. The parties respondent named herein have within the past several years agreed, combined and united in and pursued a common and concerted course of action and undertaking, among themselves and with others, to adopt, follow, carry out, enforce, fix and maintain throughout the United States, certain monopolistic prices, policies, sales methods, and trade practices, hereinafter described, which the said parties respondent have agreed to and pursued to the substantial or potential injury of some of such manufacturers, wholesalers and retail dealers and of ultimate purchasers and consumers of golf balls.

PAR. 7. The said monopolistic prices, sales methods, policies and trade practices referred to in the preceding paragraph and which were so adopted, fixed, and put into effect are as follows:

1. A policy and practice of coercing, in connection with the sale of golf balls to respondent members of "PGA", manufacturers and wholesalers of golf balls to enter into contracts with the respondent "PGA" providing for the payment of monies to the respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on the golf balls so sold.

2. A policy and practice of causing, permitting and allowing the respondent "PGA" to remit and pass along to its members a designated percentage of the monies paid by manufacturers and wholesalers to respondent "PGA" under the aforesaid contracts.

3. A policy and practice of causing, permitting, and allowing the respondent "PGA" to use the funds derived from the payment of monies under the aforesaid contracts for the purpose of promoting and creating a preference on the part of the purchasing public for golf balls having the letters "PGA" imprinted thereon to golf balls of equal quality and value offered for sale and sold by retail competitors of the respondent members of "PGA".

4. The policy and practice of requiring that all manufacturers and wholesalers of golf balls who manufacture and sell balls under the aforesaid contracts observe the provisions of said contracts with respect to the maintenance of uniform prices as between members of the respondent "PGA" and other retail dealer purchasers who are non-members of respondent "PGA" in the sale of their golf balls of equal grade and quality.

5. A policy or practice of granting, giving or allowing members of the respondent "PGA" a discount on purchases of golf balls commensurate with the designated percentage of the aforesaid payments to be received by them in lieu of said designated percentage.

6. A policy and practice of requiring that all manufacturers and wholesalers of golf balls who sell their products to members of respondent "PGA" refrain and abstain from giving, allowing or granting in any way or manner any rebate, discount, royalty, or refund in any manner or form to retail purchasers who are not members of respondent "PGA".

7. A policy and practice of persuading, coercing and compelling retail dealers in golf balls who are not members of respondent "PGA" to refrain, abstain and desist from selling golf balls at a price less than that designated by the parties respondent herein.

8. Generally, a policy and practice designed to and tending to monopolize the sale and distribution of golf balls in the parties respondent herein.

PAR. 8. For the purpose of making such sales practices, policies and pricing methods effective, and of requiring compliance therewith and observance thereof by all manufacturers, wholesalers, and retail dealers in golf balls throughout the United States, the parties respondent herein, acting through their officers, directors, committees, and individually, in furtherance of and in pursuance of the general plan, undertaking, and policy, have collectively as groups or individually done the following things:

1. Formulated, adopted, followed, carried out, enforced, imposed and made effective the policies, practices and methods described in the preceding paragraph.

2. Held official and unofficial meetings of said respondent associations and their members at which the policies and practices hereinabove described were discussed, adopted and agreed to, and issued bulletins, circulars, letters, price lists and other printed matter, and distributed the same among the members of said respondent associations and others, announcing the adoption of the policies, practices and requirements referred to and the imposition of the same upon all affected thereby.

3. Caused manufacturers and wholesalers of golf balls who sell their products to members of respondent "PGA" to enter into contracts with respondent "PGA" providing for the payment of money to respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on their golf balls.

4. Caused, permitted, and allowed the respondent "PGA" to remit and pass along to its members a designated percentage of the monies paid by the manufacturers and wholesalers to the respondent "PGA" under the aforesaid contracts.

5. Caused, permitted and allowed the respondent "PGA" to use the funds derived from the payment of monies under the aforesaid contracts for the purpose of promoting the interests and welfare of its members to the disadvantage of retail dealers in golf balls who are not members of said respondent "PGA."

6. Respondent members of the "Manufacturers' Association" have observed the provisions of the aforesaid contracts with respect to the maintenance of uniform prices as between members of the "PGA" and others than members of the "PGA" in the sale of golf balls of equal grade and quality to those sold to members of the "PGA" under the provisions of said contracts.

7. Respondent members of the "Manufacturers' Association" have given and allowed members of respondent "PGA" a discount on purchases of golf balls commensurate with the designated percentage of the aforesaid payments of money to be received by them in lieu of said percentage thereof.

8. Respondent members of the "Manufacturers' Association" refuse and refrain from giving, allowing, or granting in any way or manner any rebate, discount, royalty, or refund in any manner or form to retail dealer purchasers who are not members of respondent "PGA."

9. The parties respondent herein have persuaded, coerced and compelled retail dealers in golf balls who are not members of the respondent "PGA" to refrain, abstain and desist from selling golf balls at a price less than that designated by them.

10. Respondents generally have sought and have obtained promises and assurances of cooperation from one another in establishing and making effective the sales practices, policies and pricing methods hereinabove described.

11. The parties respondent generally have exchanged information with reference to their respective businesses and activities to be used in furtherance of the policies and methods referred to.

12. The parties respondent generally have supervised and investigated the practices and policies of retail dealers in golf balls, and have acted concertedly to maintain certain resale prices agreed upon, to control resale markets and to coercively require recalcitrant manufacturers, wholesalers and retail dealers to conform to such practices and methods.

PAR. 9. The capacity, tendency, and effect of said plan, agreement, undertaking, policies and methods, and the said acts and practices of said respondents in pursuance thereof, are and have been:

1. To monopolize in the respondent members of the "Manufacturers' Association" the business of manufacturing and of selling golf balls to retail dealers in the United States.

2. To monopolize in the respondent members of "PGA" the retail sale of golf balls to consumers in the United States.

3. To fix and maintain the prices at and conditions under which golf balls are sold by manufacturers and wholesalers thereof.

4. To fix and maintain the prices at and conditions under which golf balls are sold by retail dealers to consumers.

5. To bring about an unlawful discrimination in the prices at which golf balls of the same grade and quality are sold by manufacturers and wholesalers to retail dealers therein.

6. To unreasonably lessen, eliminate, restrain, stifle, hamper, and suppress competition in the golf ball trade and industry and to deprive the purchasing and consuming public of advantages in price, service, and other considerations which they would receive and enjoy under conditions of normal and unobstructed or free and fair competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

7. To substantially increase the cost of retail dealer purchasers of golf balls.

8. To suppress, eliminate and discriminate against small business enterprises which are or have been engaged or desire to engage in manufacturing, selling or distributing golf balls.

9. To obstruct and prevent the establishment of new distributors of golf balls.

10. To suppress and eliminate all price competition among manufacturers and wholesalers in the sale of golf balls and among retail dealers engaged in the resale thereof.

11. To hamper and interfere with the natural flow of trade in commerce of golf balls to and through the various states of the United States; and to injure the competitors of individual respondents by unfairly diverting business and trade from them, depriving them thereof and otherwise driving or freezing them out of business.

12. To prejudice and injure manufacturers, wholesalers and retailers and others who do not conform to respondents' program or methods or who do not desire to conform to them, but are compelled to do so by the concerted action of respondents herein alleged.

PAR. 10. The above alleged acts and things done by the parties respondent have a dangerous tendency unduly to hinder competition in the golf ball trade throughout the United States, and to create a monopoly thereof in the hands of respondents and constitute unfair methods of competition in commerce within the meaning of Section 5 of an Act of Congress entitled "An Act to Create a Federal Trade Commission, to define its powers and duties and for other purposes", approved September 26, 1914.

PAR. 11. The parties respondent herein named have brought about and made effective a policy and system whereby respondent members of the "Manufacturers' Association" discriminates and have discriminated in price between different purchasers of golf balls of like grade and quality, in violation of Section 2a of the Clayton Act as amended by an Act of

Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13), and for other purposes."

The aforesaid discriminations in price between different purchasers of golf balls of like grade and quality were effected through the concerted action of the parties respondent herein through the formulation, adoption, and administration of a policy and practice of requiring the payment of monies to respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on golf balls which are sold to members of the respondent "PGA", a percentage of which monies to be passed along to the member purchaser with the knowledge and consent of the respondent members of the "Manufacturers' Association"; or a policy or practice of requiring that the respondent members of the "Manufacturers' Association" give members of respondent "PGA" a discount or rebate on the purchase prices quoted to the retail trade on golf balls of like grade and quality; or a policy or practice requiring that the respondent members of the "Manufacturers' Association" quote and sell members of respondent "PGA" golf balls of like grade and quality to those offered and sold the non-member retail dealers at a price less than that at which they are sold to non-members retail purchasers.

PAR. 12. The respondent members of the "Manufacturers' Association" have contracted for the payment of, and have made payments of money to the respondent "PGA" to be used by said respondent "PGA" for the purpose of promoting the welfare and interest of their customers who are members of said respondent "PGA" in violation of Section 2 (d) of the Clayton Act as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13), and for other purposes".

The aforesaid payments of money were effected through the payment of monies to the respondent "PGA" for the privilege of causing the letters "PGA" to be imprinted on golf balls which are sold to members of the respondent "PGA", and the said payments consist of that percentage of said monies which is not passed along to the respondent member purchasers of golf balls but is retained by the respondent "PGA" and used by it for the benefit, and promotion of the welfare of its respondent members. The said payments of money are not available, and are not made to any customers of the respondent members of the "Manufacturers' Association" who are not members of the respondent "PGA".

PAR. 13. The respondent members of the respondent "PGA" have knowingly induced said respondent members of the "Manufacturers' Association" to discriminate in price as aforesaid, and have knowingly received such discriminations in price on purchases of golf balls made by them, in violation of Section 2 (f) of the Clayton Act as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Sec. 13), and for other purposes".

PAR. 14. The general effect of the policies and practices requiring the systematic discriminations in price for golf balls of like grade and quality between customers in the same class as set forth in Paragraphs Eleven and Thirteen hereof has been or may be substantially to lessen competition and tend to create a monopoly in the manufacture, sale and distribution of golf balls, and to injure, destroy and prevent competition between and among manufacturers, wholesalers and retailers of golf balls and to deprive the purchasing public of advantages in price, service and other considerations which might be received and enjoyed under conditions of normal and unobstructed or free and fair competition in said trade and industry; and to otherwise operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in such trade and industry.

Conclusion

The aforesaid acts and practices of respondents have a dangerous tendency unduly to hinder competition in the golf ball trade throughout the United States, and to create a monopoly thereof in the hands of respondents and constitute unfair methods of competition in commerce within the meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties and for other purposes" approved September 26th, 1914; and the acts and practices, set forth in paragraphs 11 to 14 inclusive, of the said respondents are in violation of Section 2 (a), 2 (d) and Section 2 (f) of the Clayton Act as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 15, 1914, as amended (U. S. C. Title 15, Section 13) and for other purposes."

By the Commission.

[SEAL] GARLAND S. FERGUSON, Jr., *Chairman.*

ORDER TO CEASE AND DESIST

This proceeding having been heard [1] by the Federal Trade Commission upon the amended complaint of the Commission and the answers filed by the parties respondent herein on February 7, 1938, admitting with certain exceptions all the material allegations of the complaint for the purpose of this proceeding only, and waiving the taking of further evidence and other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties and for other purposes" and Sections 2a, 2d and 2f of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" as amended by an Act of Congress approved June 19, 1936, entitled "An Act to amend Section 2 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes' approved October 19, 1914, as amended (U. S. C. Title 15, Sec. 13) and for other purposes";

It is ordered, That the parties respondent herein, and their agents, representatives, servants and employees in connection with the sale, offering for sale or purchase of golf balls in interstate commerce or in the District of Columbia, cease and desist from:

(1) Entering into and carrying out any agreement or combination among themselves or among any of them, to fix and maintain uniform wholesale prices to be exacted by the manufacturers of golf balls, or their agents, servants or representatives, from retail dealer purchasers thereof;

(It is not intended that the foregoing paragraph shall abridge any lawful right of a licensor under a patent or a patent license agreement to apply to any lawful action taken under patents or license agreements relating thereto);

(2) Fixing, enforcing and maintaining, by agreement or combination among themselves, or among any of them, resale prices for golf balls;

(It is not intended that the provisions of the two preceding paragraphs shall abridge or preclude any lawful action with reference to prices which is permitted by the Act commonly called the Miller-Tydings Act, namely, Title 8 of the Act of Congress approved August 17, 1937, entitled "An Act to provide additional revenue for the District of Columbia and for other purposes"; or any other then existing Federal Law).

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[1] 3 F. R. 318 (DI).

It is further ordered, That the respondent, Professional Golfers Association, its officers, members, agents or representatives, cease and desist from:

(1) Requiring, coercing or persuading the respondent Golf Ball Manufacturers' Association, its officers, members, agents or representatives, or any of them, or any other corporation, partnership, firm or individual, to enter into any agreement or contract providing for or resulting in a difference in price in favor of members of the "PGA", through the payment of any monies, or any thing of value for the privilege of causing the letters "PGA" or any other insigna or mark of like character to be imprinted on golf balls manufactured and sold by any of the respondent manufacturers or any other manufacturer, corporation, partnership, firm or individual, directly or indirectly to the respondent "PGA" or any of its respondent members.

(2) Entering into any combination, understanding or agreement among themselves, or among any of them, to hinder or prevent, by intimidation, coercion, withdrawal, or threatened withdrawal of patronage or custom, either expressed or implied, or promises or agreements to increase such patronage or custom, any person, firm, partnership, or corporation, or any agent or representative thereof, from selling or buying golf balls in interstate commerce, from or to whomsoever, or at whatsoever price or terms may be agreed upon between any seller or purchaser.

It is further ordered, That the respondent Golf Ball Manufacturers' Association, its officers, members agents or representatives, or any of them, in connection with the sale or offering for sale of golf balls in interstate commerce, cease and desist from:

(1) Granting or giving the following unlawful discriminations in price, namely, the payment of anything of value to respondent Professional Golfers Association, either as a royalty for the privilege of causing the letters "PGA" or any other insignia, brand or mark to be imprinted on golf balls sold to members of the respondent Professional Golfers Association or otherwise, which payment is, directly or indirectly, in whole or in part, passed along to or used for the benefit of the members of said Professional Golfers Association; or the making of any payment directly to such members in lieu of any such payment to the Professional Golfers Association;

(2) Granting or giving any other price discrimination of substantially similar character to the respondent Professional Golfers Association or its members under substantially like circumstances and conditions in connection with the sale of golf balls of like grade and quality;

(3) Paying or contracting to pay to the respondent Professional Golfers Association anything of value either as a royalty for the privilege of causing the letters "PGA" or any other insignia of like character to be imprinted on golf balls or otherwise, which payment is intended to be used or is in effect used, directly or indirectly, in whole or in part, for the purpose of advertising, promoting or creating a preference on the part of the purchasing public for golf balls having the letters "PGA" or any other insignia, brand or mark impressed thereon, unless such payments are made available on proportionately equal terms to all other customers competing with the members of the Professional Golfers Association in the distribution of golf balls of like grade and quality;

(4) Otherwise granting to the respondent Professional Golfers Association any advertising or promotion allowances of substantially similar character, unless such payments are made available on proportionately equal terms to all other customers competing with the members of the Professional Golfers Association in the distribution of golf balls of like grade and quality;

(It is not intended that the provisions of the foregoing paragraphs (1) to (4) inclusive shall preclude lawful contributions made to promote the general welfare of the game of golf.)

It is further ordered, That the respondent, Professional Golfers Association, its officers, members, representatives, agents and employees, cease and desist from:

(1) Inducing or receiving any discrimination in price or allowance in connection with the purchase of golf balls in interstate commerce which the manufacturers of golf balls are prohibited from giving under the provisions of paragraphs (1) to (4) inclusive immediately preceding this paragraph of this order;

(2) Inducing or receiving any similar discrimination in price or allowance in the purchase of golf balls in interstate commerce under substantially like circumstances and conditions.

It is further ordered, That the parties respondent herein, within sixty (60) days of the date of the service upon them of this order, file with the Commission reports in writing stating the manner and form in which they shall have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-626; Filed, March 1, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3248]

IN THE MATTER OF SPECIALTIES, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That William G. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, March 17, 1938, at ten-thirty o'clock in the forenoon of that day (eastern standard time) in Room 424, 815 Connecticut Avenue, Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-625; Filed, March 1, 1938; 9:26 a. m.]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of February, A. D. 1938.

Commissioners: Garland S. Ferguson, Jr., Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3289]

IN THE MATTER OF STANDARD CONTAINER MANUFACTURERS' ASSOCIATION, INC., A CORPORATION, AND ITS MEMBERS; JAMES B. ADKINS, CHARLES P. CHAZAL, RUSSELL W. BENNETT, INDIVIDUALLY, AND AS PRESIDENT, VICE-PRESIDENT, AND SECRETARY, TREASURER AND MANAGER, RESPECTIVELY, AND AS MEMBERS OF THE BOARD OF DIRECTORS OF STANDARD CONTAINER MANUFACTURERS' ASSOCIATION, INC.; ADKINS MANUFACTURING COMPANY, A CORPORATION; CONSUMERS LUMBER AND VENEER COM-

PANY, A CORPORATION; ELBERTA CRATE AND BOX CO., A CORPORATION; GEORGIA VENEER AND PACKAGE CO., A CORPORATION; GEORGIA CRATE AND BASKET CO., A CORPORATION; THE GREENVILLE VENEER AND CRATE COMPANY, A CORPORATION; KEYSVILLE LUMBER COMPANY, A CORPORATION; WALTON E. NANTS AND R. A. NANTS, TRADING AS NANTS MANUFACTURING COMPANY; NOCATEE-MANATEE CRATE COMPANY, A CORPORATION; OCALA MANUFACTURING, ICE AND PACKING CO., INC., A CORPORATION; THE PIERPONT MANUFACTURING COMPANY, A CORPORATION; ROUX CRATE AND LUMBER COMPANY, INC., A CORPORATION; SHOLLAR CRATE AND BOX COMPANY, INC., A CORPORATION; SOUTHERN CRATE AND VENEER CO., A CORPORATION; SOUTHERN VENEER COMPANY, A CORPORATION; WALLING CRATE COMPANY, A CORPORATION; FRANK R. POUNDS CRATE COMPANY, A CORPORATION; LAKE CRATE AND LUMBER CO., A CORPORATION; OSCEOLA CRATE MILLS, INC., A CORPORATION; ZACHARY VENEER COMPANY, A CORPORATION; MONTBROOK CRATE CO., A CORPORATION; SOUTHERN CONTAINER COMPANY, A CORPORATION; CUMMER SONS CYPRESS COMPANY, A CORPORATION; HECTOR SUPPLY CO., A CORPRATION; ZACK RUSS, AN INDIVIDUAL, TRADING AS RUSS CRATE COMPANY; STEPHEN O. SHINHOLZER, AN INDIVIDUAL

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, That Edward J. Hornibrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, March 14, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Grand Jury Room 309, Federal Building, Tampa, Florida.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 38-624; Filed, March 1, 1938; 9:26 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of February, 1938.

IN THE MATTER OF CHICAGO CURB EXCHANGE ASSOCIATION

ORDER GRANTING PERMISSION TO WITHDRAW REGISTRATION AS A NATIONAL SECURITIES EXCHANGE

The Chicago Curb Exchange Association having been granted registration as a national securities exchange; and

Said Exchange having made application under Section 6 (f) of the Securities Exchange Act of 1934, for permission to withdraw its registration as a national securities exchange upon the grounds that its membership has declined substantially, that it has operated at a substantial deficit for the past four years, and that the volume of listings and of transactions effected on said Exchange is not sufficient to warrant the operation of said Exchange as a national securities exchange; and

It appearing to the Commission that such application should be granted;

It is ordered, That said Exchange be and is hereby permitted to withdraw its registration as a national securities exchange, effective as of March 15, 1938, upon condition that notice of this order be served prior to March 10, 1938, on all issuers having securities listed on said Exchange.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-631; Filed, March 1, 1938; 11:28 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of February, A. D. 1938.

IN THE MATTER OF THE PROCEEDINGS TO DETERMINE WHETHER CHARLES C. WRIGHT; CHARLES C. WRIGHT, JERE A. SEXTON, GEORGE S. SIMPSON, A CO-PARTNERSHIP DOING BUSINESS AS WRIGHT & SEXTON; HERBERT KING; NORMAN STERN; HERBERT KING, NORMAN STERN, ROY W. ARNOLD, MAURICE GOODMAN, ERNST B. KAUFMAN, GUISEPPE RUSSO, SAMUEL STRASBOURGER, BENJAMIN H. ARNOLD, BENJAMIN F. GOODMAN, A CO-PARTNERSHIP DOING BUSINESS AS ARNOLD & COMPANY, SHOULD BE SUSPENDED OR EXPELLED FROM MEMBERSHIP ON CERTAIN NATIONAL SECURITIES EXCHANGES

ORDER OF SUSPENSION AND EXPULSION

This matter, after appropriate notice and hearing and argument by counsel, having been duly considered by the Commission, and the Commission having found that the respondents Norman Stern, Herbert King and Charles C. Wright have violated Section 9 (a) (1) and Section 9 (a) (2) of the Securities Exchange Act of 1934, as amended, and being of the opinion that it is necessary and appropriate for the protection of investors to suspend the respondents Norman Stern and Herbert King from membership upon all of the national securities exchanges of which they are members for a period of twelve months and to expel the respondent Charles C. Wright from all of the national securities exchanges of which he is a member, all as more fully set forth in the Findings and Opinion of the Commission:

It is ordered, Pursuant to Section 19 (a) (3) of said Act:

That, effective April 30, 1938, respondent Norman Stern, a member, as that term is defined in said Act, of the New York Stock Exchange and the New York Curb Exchange, national securities exchanges, be and hereby is suspended from membership on said exchanges until April 30, 1939;

That, effective April 30, 1938, respondent Herbert King, a member, as that term is defined in said Act, of the New York Stock Exchange and the New York Curb Exchange, national securities exchanges, be and hereby is suspended from membership on said exchanges until April 30, 1939;

That, effective April 30, 1938, respondent Charles C. Wright, a member, as that term is defined in said Act, of the New York Stock Exchange, the New York Curb Exchange, the Philadelphia Stock Exchange, the Chicago Stock Exchange, and the Board of Trade of the City of Chicago, national securities exchanges, be and hereby is expelled from said exchanges;

That a copy of this Order, accompanied by the Findings and Opinion of the Commission, be served upon the respondents herein, or their counsel, and be transmitted by registered mail to the Secretaries of the New York Stock Exchange, of the New York Curb Exchange, of the Philadelphia Stock Exchange, of the Chicago Stock Exchange, and of the Board of Trade of the City of Chicago, and to the firms of Arnold & Company and Wright & Sexton, New York City.

By order of the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 38-630; Filed, March 1, 1938; 11:28 a. m.]